VOLUME II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, [redacted] 1966

No. [redacted] 15

ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

No [redacted] 17

CALUMET HARBOR TERMINALS, INC., ET AL., APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

No. [redacted] 20

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

NO. 445 FILED AUGUST 11, 1966
NO. 494 FILED AUGUST 22, 1966
NO. [redacted] FILED SEPTEMBER 7, 1966
PROBABLE JURISDICTION NOTED NOVEMBER 14, 1966

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1965

No. 445

ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

No. 484

CALUMET HARBOR TERMINALS, INC., ET AL., APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

No. 543

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

NORFOLK AND WESTERN RAILWAY COMPANY, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

INDEX

RECORD PRESS, PRINTERS, NEW YORK, N. Y., APRIL 11, 1966

	Original	Print
VOLUME II		
Reply of Rock Island and Pullman to applicants' submission, etc.	3312	497
Reply of Nickel Plate to applicants' submission, etc.	3317	499
Second supplemental report of the Commission, decided November 26, 1962 in Finance Dockets Nos. 19538, 19742 and 19921	3324	504
Second supplemental certificate and order, dated November 26, 1962	3334	512
Rock Island and Pullman petition for reconsideration, dated December 28, 1962	3336	514
Petition of Nickel Plate for reconsideration, etc.	3352	525
Reply of applicants to latest petitions for reconsideration	3369	538
I.C.C.'s order denying petitions for reconsideration, dated March 18, 1963	3375	545
Transcript of hearing, September 30, 1957 to October 11, 1957	3378	548
Statement by Mr. Dwinell	3389	550
Testimony of Maxim M. Cohen—		
direct	3411	564
cross	3462	599
redirect	3527	645
recross	3530	647
Wayne A. Johnston—		
direct	3533	649
cross	3549	654
Fred Carpi—		
direct	3572	658
cross	3592	659
redirect	3611	660
A. E. Baylis—		
direct	3617	660
cross	3640	664
Oliver J. Williford, Jr.—		
direct	3667	666

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, September 30, 1957 to October 11, 1957—Continued		
Testimony of Otto H. Zimmerman—		
direct	3696	672
H. H. Pevler—		
direct	3725	688
Dwight A. Fawcett—		
direct	3755	691
cross	3765	692
redirect	3768	694
T. E. Reynolds—		
direct	3770	695
A. W. Laskoske—		
direct	3782	698
D. E. Ferner—		
direct	3806	704
C. L. Poole—		
direct	3814	704
William J. Raleigh, Jr.—		
direct	3845	710
Fred J. Wasson—		
direct	3854	711
cross	3868	714
Clarence O. Bunce—		
direct	3883	716
cross	3892	719
William W. Huggett—		
direct	3912	720
George M. McConnell, Jr.—		
direct	3945	743
Kevin T. Levins—		
direct	3950	747
Frank P. Scharffenberger—		
direct	3961	755
cross	3976	755
redirect	3980	757

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, September 30, 1957 to October 11, 1957—Continued		
Testimony of Harold R. Sampson—		
direct	3985	758
cross	3989	759
Phillip M. Corby—		
direct	4005	759
cross	4010	762
E. F. Moberg—		
direct	4014	763
cross	4023	767
Gilmore F. Jennings—		
direct	4040	769
cross	4045	772
R. V. Cearfoss—		
direct	4051	773
cross	4058	778
John M. Trissal—		
direct	4091	792
cross	4097	797
H. H. Pevler (resumed)—		
cross	4127	802
D. E. Ferner (resumed)—		
cross	4184	833
C. L. Poole (resumed)—		
cross	4196	840
redirect	4197	840
Joseph R. Hartley—		
direct	4204	841
cross	4249	862
Thomas J. Crowe—		
direct	4273	869
cross	4293	882
R. D. Erickson—		
direct	4318	886

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, September 30, 1957 to October 11, 1957—Continued		
Testimony of Thomas H. Coulter—		
direct	4368	891
cross	4389	903
George H. Weiss—		
direct	4413	913
Edwin A. Kuecker—		
direct	4450	924
R. D. Erickson (resumed)—		
cross	4460	926
Elden A. Tharp—		
direct	4491	930
Deposition of Nels Kunst read into the record—		
direct	4500	934
Deposition of William E. Bolton read into the record—		
direct	4516	946
cross	4531	957
Testimony of L. B. Pritchett—		
direct	4558	957
W. B. Throckmorton—		
direct	4598	969
cross	4609	977

[fol. 3312]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538

ILLINOIS CENTRAL RAILROAD COMPANY et al. Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

Finance Docket No. 19742

BELT RAILWAY COMPANY OF CHICAGO Trackage Rights, etc.

Finance Docket No. 19921

MICHIGAN CENTRAL RAILROAD COMPANY et al. Trackage Rights.

REPLY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY AND PULLMAN RAILROAD COMPANY TO APPLICANTS' SUBMISSION IN COMPLIANCE WITH THE COMMISSION'S ORDERS DATED MAY 15, 1962 AND AUGUST 23, 1962—Filed October 12, 1962

On December 1, 1961, the applicants in the above-entitled proceedings filed a petition with the Commission asking the Commission to approve an agreement with the Chicago Regional Port District (Port District) for the non-exclusive use of the tracks of the Port District. In response to that petition Chicago, Rock Island and Pacific Railroad Company (Rock Island) and Pullman Railroad Company (Pullman), on December 11, 1961, filed a motion with the Commission asking for additional information. The Com-

mission, in its order of May 15, 1962, denied the motion of Rock Island and Pullman but ordered the applicants to file 15 copies of the centralized supervision agreement between the applicants concerning the manner in which the [fol. 3313] applicants would operate the facilities at the Port. The agreement for the non-exclusive use of the Port District's tracks provides that it shall not become operative until the Port District approves the centralized supervision agreement.

On May 24, 1962, the applicants purported to comply with the May 15, 1962 order of the Commission by referring the Commission to Exhibit H-29, introduced at the hearing on the applicants' original applications.

On June 11, Rock Island and Pullman filed a pleading which, among other things, included a reply to applicants' petition for approval of an agreement for the non-exclusive use of the Chicago Regional Port District's tracks and facilities, as modified.

On August 23, 1962, the Commission entered an order finding that reference to an exhibit did not constitute compliance with the Commission's order of May 15, 1962, and ordering the applicants to submit the centralized supervision agreement, properly executed by all parties applicant and the Port District, within 30 days. On September 26, 1962, the applicants complied with this order of the Commission.

[fol. 3314] It has taken the applicants practically a year to file documents which can be considered by the Commission.

We do not propose to state again our reasons for opposition to the approval of the agreement for the non-exclusive use of the Port District's tracks. Our arguments have been set forth completely in our motion for additional information and in our reply to the applicants' petition for approval.

We ask the Commission to consider those documents in arriving at its decision on the petition.

Respectfully submitted,

Bruce Dwinell, Theodore E. Desch, 1025 LaSalle Street Station, Chicago 5, Illinois; Joseph B. Fleming, John L. Bordes, Prudential Plaza, Chicago 1, Illinois, Attorneys for Chicago, Rock Island and Pacific Railroad Company and Pullman Railroad Company.

Dated at Chicago, Illinois, this 10th day of October, 1962.

[fol. 3315] Certificate of Service (omitted in printing).

[fol. 3317]

BEFORE THE INTERSTATE COMMERCE COMMISSION

F. D. No. 19538, et al.

ILLINOIS CENTRAL RAILROAD COMPANY, et al.—Construction and Trackage Rights—Lake Calumet Harbor, Cook County, Illinois.

REPLY TO APPLICANTS' SUBMISSION OF SEPTEMBER 25, 1962 IN ABOVE PROCEEDING—Filed October 12, 1962

Comes now The New York, Chicago and St. Louis Railroad Company (hereinafter called "Nickel Plate"), and respectfully files this its reply to applicants' submission of September 25, 1962, entitled "Applicants' Submission in Compliance with the Commission's Orders dated May 15, 1962 and August 23, 1962."

General

In order to simplify this reply, Nickel Plate reincorporates the various documents which it has heretofore filed and reasserts all of the various contentions made by it throughout this proceeding with respect to deficiencies and

errors in the various Commission reports and orders in these proceedings.

In brief review, this proceeding involves the effort of the applicants to invade the Lake Calumet area in Chicago, Illinois, now being served on the west side by the Rock Island and fully available for Nickel Plate service on the east as that side develops. Nickel Plate and Rock Island oppose the applications. The proceeding was commenced [fol. 3318] just six years ago and hearings were held in 1957, so that applicants' evidence of public convenience and necessity, both in their applications and at the hearings, is long since stale.

On or about November 27, 1961, approximately four years after conclusion of the hearings, applicants filed a petition for approval of an agreement with the Chicago Regional Port District for use of the latter's tracks. On May 15, 1962, without approving said petition and agreement, the Commission ordered the applicants to prove, by service of copies, that there was a centralized supervision agreement among them covering operation, maintenance and repair of Port District tracks. The applicants responded by referring to an unexecuted Memorandum of Understanding in the record. By order dated August 23, 1962 the Commission held such evidence to be deficient and ordered the applicants to submit a centralized supervision agreement properly executed by the applicants and the Port District or to face denial of their applications. The document to which this reply is now filed is the submission made on September 25, 1962 in connection with the last mentioned order and consists of an agreement made during September, 1962 but predated to September 4, 1957.

The issues before the Commission at this time are whether it will approve (1) the agreement dated June 12, 1961 among the Chicago Regional Port District and the railroad applicants for the use of Port District tracks, and (2) the so-called centralized supervision agreement dated as of September 4, 1957 among the railroad applicants and accepted by the Chicago Regional Port District.

[fol. 3319]

Deficiencies of the Centralized Supervision Agreement Dated as of September 4, 1957 and of the Operating Arrangement to Reach and Serve the Port District.

The applicants' plan of operation, detailed at the hearings, is to operate individually a total of 24 trains per day to and from the Port District, using trackage rights over the Chicago South Shore and South Bend, the Illinois Central, and the Pennsylvania Railroad. In reaching the port they must operate over the South Shore tracks which carry a particularly large number of passengers, including commutation service, and then over a curving single track into the Port District yard. After their trains arrive in the Port District yard, the switching to industries is to be performed by common power, which will also take outbound cars from industries to the port yard for movement out in trains of the individual applicants. This outbound movement will be over the same single track used for inbound transportation. Since the industrial leads extend from this single access track, the inbound and outbound movements will prevent switching of tracks to industries, compounded by delay and obstruction encountered from the numerous trucks operating over all the tracks. The port yard has a capacity of only 300 cars at the most and would be used not only for break-up of the 12 inbound trains, for make-up of the 12 outbound trains, but also for classification of cars for industrial switching.

It is quite evident that the aforesaid plan of operations, approved by the Commission in its initial report in this proceeding, could not be continued long. The applicants will be led to use of a major yard outside the Port District with common power operating between that yard and port industries, or exactly the method of operation employed [fol. 3320] by the Rock Island today. Therefore, if the Commission should approve the proposed plan of operations, including the centralized supervision agreement, it can only be on the ground that Rock Island's method of service does not fulfill public convenience and necessity. If applicants' plan should thereafter become effective, the

applicants should be held to such plan of operations or should vacate the property when the plan proves unworkable and not be permitted to adopt the Rock Island plan or that which Nickel Plate would similarly use.

As stated, however, the record is completely stale. It has taken the applicants three years since the hearings to reach formal agreement on the plan of operations then offered. In this three year period the railroad situation has continued its deterioration, and this is certainly no time to approve wasteful duplication of facilities when it is heard on all sides that the railroad plant is already too large.

Deficiencies of the Agreement Dated June 12, 1961 Among the Chicago Regional Port District and the Applicant Railroads for Use of Port Tracks.

The agreement of June 12, 1961 provides that the railroads shall submit to the Port District an agreement for centralized supervision of Port District tracks, and

> "The District retains the right to require, from time to time, changes and modifications in such agreement when, in its opinion, a coordinated service in the use of its tracks and facilities makes such changes and modifications necessary."

The foregoing quoted provision is particularly important from two standpoints—

1. It has already been shown that the plan of operations of the applicants is totally unworkable and will necessitate changes in the future. Under the agreement of June 12, 1961, if approved, the Port District [fol. 3321] would be authorized unilaterally to order changes in the method of serving the port. This could include the grant of new trackage rights and use of other railroad properties ordinarily submitted to the Commission for prior approval. Approval of said contract would, therefore, be an unwarranted delegation by the Commission to the Port District of the power to order and approve changes in the operating agreement and practices.

2. This quotation and intended grant of power to the Port District to control the method of operations raise, in turn, question as to the carrier status of the Chicago Regional Port District. Compare *Harris County Houston Ship Channel Nav. Dist. Operation*, 290 I.C.C. 83 (1953). The Commission should keep in mind that the Port District is not itself a shipper or receiver of traffic using railroad service but is in the position of a lessor of railroad tracks.

Article III of the agreement of June 12, 1961 also provides for the payment to the Port District of $2.00 for each partially or fully loaded revenue car. When consideration is given to the trackage charges applicants would pay to reach the Port District and that they have additional costs of operation, as compared with published switching charges, there is no evidence from which a finding can be made that the amounts to be paid to the Port District are reasonable. Furthermore, from the railroad standpoint there is no evidence as to the value of the Port District tracks they would occupy.

[fol. 3322] Wherefore, it is respectfully requested that the applications, petitions, and submissions of the applicants, including their centralized supervision agreement and agreement for use of Port District tracks, be disapproved. The applicants have not fulfilled their burden of proof.

Respectfully submitted,

The New York, Chicago and St. Louis Railroad Company, By: /s/ Thomas O. Broker, Attorney for Intervener.

P. O. Box 6119
Cleveland 1, Ohio

Dated: October 11, 1962
Due Date: October 15, 1962

[fol. 3323] Certificate of Service (omitted in printing).

[fol. 3324] Service Date December 3, 1962

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538[1]

ILLINOIS CENTRAL RAILROAD COMPANY et al., Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

Second supplemental certificate and order issued authorizing operation, under non-exclusive use agreement, by the Illinois Central Railroad Company, The Pennsylvania Railroad Company, the Chicago, South Shore and South Bend Railroad Company, The Belt Railway Company of Chicago, The New York Central Railroad Company, and the Indiana Harbor Belt Railroad Company over the existing tracks of the Chicago Regional Port District at Lake Calumet Harbor in Cook County, Ill. Previous reports 307 I.C.C. 493 and 312 I.C.C. 277.

Appearances as in previous reports.

SECOND SUPPLEMENTAL REPORT OF THE COMMISSION—
Decided November 26, 1962

By the Commission:

By report, certificate and order, dated October 5, 1959, 307 I.C.C. 493, we authorized, among other things, the Illinois Central Railroad Company, The Pennsylvania Railroad Company, the Chicago, South Shore and South Bend Railroad Company, The Belt Railway Company of Chicago, The New York Central Railroad Company, and the Indiana

---

[1] This report also embraces Finance Docket No. 19742, Belt Railway Company of Chicago Trackage Rights, Etc., and Finance Docket No. 19921, Michigan Central Railroad Company et al., Trackage Rights.

Harbor Belt Railroad Company, referred to collectively herein as the applicants, all common carriers by railroad subject to the provisions of part I of the Interstate Commerce Act, to construct or operate lines of railroad leading to the Lake Calumet Harbor Port of Chicago in Cook County, Ill. However, we found that although it was the applicants' intention to serve the present and future industries, elevators, warehouses, docks, and piers appurtenant to the harbor, their original applications were not broad enough to permit the authority which they requested to operate over the tracks of the Chicago Regional Port [fol. 3325] District (District) to serve the facilities located on District's property in the harbor area.

The applicants filed various supplemental applications to correct the deficiencies in their original applications and by report and certificate dated September 19, 1960, 312 I.C.C. 277, we found that the public convenience and necessity required the non-exclusive operation under lease by the applicants over the approximately 10.6 miles of existing tracks of District. We held that a proposed agreement (lease agreement) submitted with the supplemental applications was reasonable and adequate to accomplish the purpose for which it was intended and that any change in the terms or provisions of the lease subsequently made would require our prior approval and authorization.

Pursuant to the aforesaid authorization, the applicants on June 12, 1961, entered into an agreement with District (modified agreement) which, upon perusal by us, was found to differ to some extent from the terms of the aforesaid approved lease agreement. Upon being informed of this fact, the applicants, by petition filed December 1, 1961, requested approval of the modified agreement for the non-exclusive use of the tracks and facilities of District. The New York, Chicago and St. Louis Railroad Company (Nickel Plate) and the Chicago, Rock Island and Pacific Railroad Company together with its subsidiary, The Pullman Railroad Company (the two last-named carriers will be referred to collectively herein as Rock Island), inter-

veners in opposition in both prior reports, replied to the applicants' petition.

The harbor and its surrounding area, the tracks and facilities of District there located, the corporate nature and functions of District, the operations proposed by the [fol. 3326] applicants, and the opposition of the interveners in respect thereto are discussed in our previous reports in these proceedings. These matters will be further discussed herein only to the extent necessary for clarity.

In our report of September 19, 1960, we held that a hearing was not necessary for a determination of the questions at issue. We also denied a request of Rock Island for further hearing by our order of August 23, 1962. Since the general public convenience and necessity for the applicants' operations over District's tracks has been determined with only the specific terms and conditions of such operations remaining for approval, and since most of the interveners' objections to the modified agreement are actually only reiterations of their objections to the overall proposals of the applicants to serve the harbor area which have been previously discussed and disposed of in our prior reports and orders herein, we do not deem it proper to revisit upon the applicants and other parties to the proceeding the additional time and expense of a hearing upon the modified agreement.

The first modification proposed by the applicants is the deletion from the lease agreement of the terms "lease" and "lessee". The modified agreement refers to the "use" instead of the "lease" of District's tracks and facilities. This change in language is made to conform to Illinois property law in order to eliminate any reference to the lease of land.

Other proposed changes include a provision that the modified agreement does not apply to industry-owned tracks on District's property and is made subject to Rock Island's rights to District's tracks and facilities. The lease [fol. 3327] agreement applies to those tracks and facilities which District might acquire. The modified agreement is

applicable only to District's existing tracks and facilities, except that upon application by a majority of the applicants, District may construct additional tracks and facilities which will then be included in the agreement. The provision of the lease agreement for a reduction in rental payments upon an additional carrier or carriers being admitted to the use of District's tracks has been eliminated in the modified agreement, as has the requirement that any such additional carrier be physically connected to District's property to become a party to the agreement.

The modified agreement is more detailed than the lease agreement in its recitation of the duties of the applicants in maintaining and renewing in proper operating condition, at their sole cost and expense, the tracks and facilities involved and in providing service to District's tenants at lawfully established tariff rates.

The modified agreement also provides that should any one or more of the applicants fail to meet its or their obligation thereunder, the defaulting party or parties will forfeit all rights under the agreement and will also forfeit any right to future participation in the use of the tracks and facilities and may be readmitted only by obtaining our approval and the approval of District and the other applicants. This provision of the modified agreement notwithstanding, no operation authorized herein is to be abandoned by any applicant without our prior approval under section 1(18) of the act.

[fol. 3328] The lease agreement provides for an annual rental based on five percent of an agreed valuation of the properties involved with the maximum payable in any calendar year not to exceed an amount equivalent to $2.00 per car, loaded or empty, or locomotive handled to or from District's property during such calendar years. The modified agreement removes the valuation basis for rental payments and substitutes therefor a flat, user-basis charge of $2.00 per revenue car only.

According to the interveners this user-based rate was arrived at by the parties as a compromise; the applicants

desiring maximum payments under the modified agreement to be set at an amount equal to interest at five percent on the value of the tracks to be used (shown on the record to be $747,184.04 representing the cost of the trackage involved, excluding land, for the past five years) and the District requesting guaranteed minimum payments in the same amount. The interveners argue that if the volume of traffic predicted at the hearings in 1957 materializes (76,500 to 77,500 cars by the end of 1962), the rentals agreed upon, when added to maintenance and operating expenses, would be unreasonable. On the other hand, they argue, if the estimates have not been fulfilled there is clearly no need for the applicants' service. They contend that the record is deficient in evidence pertaining to the future value of the trackage and traffic volume from which we can determine the reasonableness of the consideration to be paid.

We do not agree with the interveners that lack of information concerning the future value of the tracks or the volume of traffic anticipated thereover bars approval of the modified agreement. We have never adopted any exclusive formula for determining the reasonableness of pro- [fol. 3329] posed rentals for railroad trackage. We believe that rentals generally may be considered reasonable where, as here, the facts of record disclose that non-affiliated parties, after bargaining at arms length, have entered into an agreement under which increased service will be offered to the public, all parties to the agreement will benefit financially, and the interveners' ability to continue to serve the public will not be impaired.

The elimination in the modified agreement of the rental based on the valuation of the trackage provided for in the lease agreement and the charges for locomotives and empty cars using the tracks, referred to in our report of September 19, 1960, will obviously redound to the benefit of the applicants.

The modified agreement requires that, before it becomes effective, the applicants submit to District, in form and

substance satisfactory to District, an agreement between [fol. 3330] the applicants for the centralized supervision of the operation, maintenance, and repair of the tracks and facilities involved. District will retain the right to require from time to time, changes and modifications in such agreement when in its opinion such changes or modifications are necessary.

Although the lease agreement did not, by its terms, specifically provide for the execution of such an agreement, the applicants have from the inception of this proceeding been joined in an unsigned memorandum of understanding as to the method to be followed in exercising the rights to be acquired in the harbor area. The pertinent provisions of this memorandum of understanding were discussed in our prior reports. They need not be further discussed herein. The memorandum of understanding has now been adopted by the individual applicants over the signatures of appropriate officers as the centralized supervision agreement required by the modified agreement and accepted as such by District.

The interveners contend that the provisions of the centralized supervision agreement require our approval and that the applicants have not submitted evidence of authority from their boards of directors to execute such an agreement or to submit the same for our approval. They also contend that if so approved the agreement would be a far-reaching delegation of our authority to District since that party could require a change in the method of service that would result in a major modification of the applicants' rights in the harbor area.

We must necessarily consider the provisions of the centralized supervision agreement as part of the terms and conditions of the modified agreement. However, inasmuch [fol. 3331] as the sole purpose of the centralized supervision agreement is the coordination of the separate services of the applicants to achieve efficiency in the switching within the harbor area which we have already determined to be required by the public convenience and

necessity, and the effectuation of control of two or more carriers in a common interest within the meaning of section 5(2) of the act is not contemplated, the agreement does not in itself require our approval and authorization. See *Railway Labor Executives' Assn.* v. *United States,* 151 F. Supp. 108. However, no change in the terms of the modified agreement resulting from a revision of the centralized supervision agreement is to be effected without our prior approval.

The provisions in the lease agreement with respect to the payment of taxes and the construction and maintenance of grade crossings are changed in the modified agreement only to the extent of establishing the liability of the applicants for taxes on their own property and the sole discretion of District in locating grade crossings. The provisions in regard to liability for injury or death to persons and loss or damage to property remain essentially unchanged in the modified agreement.

The modified agreement will permit District to make separate and distinct agreements with other railroads for the use of the tracks and facilities which it owns. However, such subsequent agreements are to be reasonably comparable to the modified agreement. It also prohibits the assignment of the agreement by the applicants without the prior written consent of District.

The modified agreement will change the duration of the agreement from the 20-year term, with the option in the applicants for its renewal for 4 additional terms of 20 [fol. 3332] years, provided for in the lease agreement, to an effective term of 35 years from the date operations are commenced, or to July 1, 1995, whichever date occurs first.

As indicated, the method of determining rentals provided for in the modified agreement should be more favorable to the applicants than the method set out in the lease agreement which we have previously approved. The other changes in the arrangements between the applicants and District effected by the modified agreement are, for the most part, desirable in that they reword and rearrange

the lease agreement to comply with State property laws; show that the agreement is not intended to apply to industry-owned tracks, affect the rights heretofore held by Rock Island, or grant the applicants any exclusive privileges in District's property; and otherwise define more clearly the rights and responsibilities of the parties. Accordingly, we find that the modified agreement for the non-exclusive use of District's trackage and facilities is reasonable and adequate to accomplish the purpose for which it is intended.

Our authorization herein is granted upon the understanding that no additional carrier is to be admitted to the operation of District's tracks and facilities, no further extensions of the applicants' lines of railroad on District's property herein involved will be constructed or acquired, and no change or modification, in addition to those previously referred to, in the terms of the modified agreement will be accomplished without our prior approval.

We find that the present and future public convenience and necessity require operation under a modified non-[fol. 3333] exclusive use agreement by the Illinois Central Railroad Company, The Pennsylvania Railroad Company, the Chicago, South Shore and South Bend Railroad Company, The Belt Railway Company of Chicago, The New York Central Railroad Company, and the Indiana Harbor Belt Railroad Company over existing tracks of the Chicago Regional Port District at Lake Calumet Harbor in Cook County, Ill., described herein.

An appropriate supplemental certificate and order will be issued.

Commissioner Freas, dissents.

Vice Chairman-Walrath did not participate.

Commissioner Bush, dissenting:

In my opinion, the provisions of the Act do not require our approval of the certified supervision agreement nor the agreement for the non-exclusive use of tracks and fa-

cilities at the Lake Calumet Port within the Chicago switching district. The amended proposal does not constitute the extension of a line of railroad. It is a contractual arrangement for the joint use of switching tracks within the port facility, expressly excluded from sections 1(18) and 5, and the mandatory provisions of section 1(22). The power to order or authorize the establishment, abandonment, or joint use of such tracks, although employed largely for interstate commerce, lies not with us but with the States. I would, therefore, discontinue this present proceeding for want of jurisdiction.

[fol. 3334]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538

ILLINOIS CENTRAL RAILROAD COMPANY et al., Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

Finance Docket No. 19742

BELT RAILWAY COMPANY OF CHICAGO Trackage Rights, etc.

Finance Docket No. 19921

MICHIGAN CENTRAL RAILROAD COMPANY, et al.,
Trackage Rights.

SECOND SUPPLEMENTAL CERTIFICATE AND ORDER—
November 26, 1962

Investigation of the matters and things involved in these proceedings having been made, and the Commission, on

the date hereof, having made and filed a second supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity require operation under a non-exclusive use agreement by the Illinois Central Railroad Company, The Pennsylvania Railroad Company, the Chicago, South Shore and South Bend Railroad Company, The Belt Railway Company of Chicago, The New York Central Railroad Company, and the Indiana Harbor Belt Railroad Company over the existing tracks of the Chicago Regional Port District at Lake Calumet Harbor in Cook County, Ill., described in the second supplemental report aforesaid;

It is ordered, That the applicants when filing schedules establishing rates and charges applicable to said tracks, shall in such schedules refer to this certificate by date and docket number; and

It is further ordered, That if the authority granted herein is not exercised within one year from the effective date of this certificate and order, it shall be of no further force or effect.

By the Commission.

Harold D. McCoy, Secretary.

[fol. 3336]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538

ILLINOIS CENTRAL RAILROAD COMPANY et al. Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

Finance Docket No. 19742

BELT RAILWAY COMPANY OF CHICAGO Trackage Rights, etc.

Finance Docket No. 19921

MICHIGAN CENTRAL RAILROAD COMPANY et al.
Trackage Rights.

PETITION OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY AND PULLMAN RAILROAD COMPANY, INTERVENERS IN OPPOSITION, FOR RECONSIDERATION OF THE REPORT, ORDER AND CERTIFICATE OF THE COMMISSION DATED NOVEMBER 26, 1962

PETITION FOR RECONSIDERATION—December 28, 1962

Chicago, Rock Island and Pacific Railroad Company (Rock Island) and Pullman Railroad Company (Pullman) respectfully petition the Commission for reconsideration of its report, order and certificate of November 26, 1962, in the above-entitled proceedings.

In our petition for reconsideration of the order of the Commission dated October 5, 1959 (the order approving the original applications of certain of the applicants to construct a line of railroad leading to the port and of all

applicants to operate over that railroad), we stated that the Commission erred in prejudging possible contracts and future applications (specification of error XVI in our petition for reconsideration).

[fol. 3337] In support of this specification of error, we made the following statement:

> "In the section of the report entitled 'Additional Authority Required' (Sheet 46) the Commission prejudges later applications which it says must be filed. Here and in its conclusions the Commission approves a contract with the Port District . . . —a contract not yet approved by the Port District—a contract which the Port District cannot sign since it requires the Port District to construct tracks without limitation at the request of the railroads and remove the cost thereof from the rent base at the request of the applicants—and, most important, a contract for the approval of which the applicants filed no application as the Commission said it must. The Commission also prejudges all the applications which it says it must approve for geographical extensions of service to portions of the port to be developed. It thus approves an extension of operations to a point beyond which no operation can take place without its approval on the assumption it will approve further applications. This is error." (Page 33 of Rock Island-Pullman petition for reconsideration of the order of October 5, 1959.)

Again, in specification of error VI in our petition for reconsideration of the order of September 19, 1960 (the order approving operations within the Port District), we pointed out that the Commission, by approving the applications there dealt with without a hearing, had proved the correctness of the allegations of error set forth in specification of error XVI in our petition for reconsideration of the order of October 5, 1959.

The applicants attempted to avoid the filing of a petition for the approval of the agreed to and executed contract for the use of the tracks of the Port District by merely filing it with the Commission, but the applicants were finally compelled by a suggestion of the Commission to file a petition. We asked the Commission to require the ap- [fol. 3338] plicants to furnish certain information, namely, the value of the present tracks and tracks to be built which would be used by the applicants and the anticipated payments which would be made to the Port District at the rate of $2 per car. We asked that this information be furnished in order that we might adequately reply to the application and that the Commission would have sufficient information. The Commission denied our motion, stating that ". . . the additional information requested is not necessary for a decision upon the petition."

By its latest order in this proceeding (the order of November 26, 1962), the Commission has furnished proof that specification of error XVI in our petition for reconsideration of the order of October 5, 1959, was well taken. The language of the order of November 26, 1962, supports our contention that the Commission was not interested in facts bearing on the new applications.

I.

The Commission erred in entering the order of November 26, 1962, without a hearing which was requested by us in our reply and request for a hearing dated June 7, 1962, or without requiring the furnishing of information.

The ceiling on payments to be paid under the contract for the use of the tracks proposed for execution in the application of April 4, 1960, and approved by the Commission in its order of September 19, 1960, was eliminated, and a provision was made that the payments at the rate [fol. 3339] of $2 per revenue car or locomotive would be paid without regard to valuation. The Commission, by its order of May 15, 1962 denying the motion of the Rock Island for additional information and by its order of

August 23, 1962 denying a hearing, deprived itself of the opportunity of finding out how much the payments would amount to and the relationship of those payments to the valuation of the property. The Commission merely states that:

> "We believe that rentals generally may be considered reasonable where, as here, the facts of record disclose that non-affiliated parties, after bargaining at arms length, have entered into an agreement under which increased service will be offered to the public, all parties to the agreement will benefit financially, and the interveners' ability to continue to serve the public will not be impaired.
>
> "The elimination in the modified agreement of the rental based on the valuation of the trackage provided for in the lease agreement and the charges for locomotives and empty cars using the tracks, referred to in our report of September 19, 1960, will obviously redound to the benefit of the applicants." (Sheet 6 of the order of November 26, 1962.)

The Commission erred first in delegating its function of consideration of agreements by stating that whatever the parties agreed to as to rentals would be considered reasonable by the Commission.

The Commission erred again in stating that the elimination of the ceiling and the substitution of payment without limitations would obviously redound to the financial benefit of the parties, including the applicants. Such a conclusion could not have been obvious to the Commission unless the Commission had recognized and agreed with us that the traffic at the port is and will be so low that the ceiling on payments would never be of any practical value. If, [fol. 3340] however, the Commission did reach that conclusion, it would be proving the errors which it made in saying that certain statements as to traffic made at the hearing, which it mistermed "estimates," were "conserva-

tive" (Sheet 32 of the Commission's order of October 5, 1959) and in making the finding that, based on those estimates, public convenience and necessity required the granting of the authority sought in the original applications.

The so-called "conservative estimates" called for 76,000 cars in 1962. The investment in tracks now used is $747,184. At $2 per car on this number of cars, the rent would be $152,000 or a return of almost 20% on the investment, excluding value of land.

The facts are that the traffic to and from the Port District in 1961 amounted to 13,187 cars and for the first nine months of 1961 and 1962 amounted to 10,349 cars and 8,943 cars, respectively.

The Commission should have stated which of the positions it was taking. If it stood on the estimates, it should have insisted on retention of the ceiling. If it acted on the basis of general levels of actual traffic of which it had knowledge, it should have so stated and admitted its error in relying on the so-called estimates as a basis for its finding as to public convenience and necessity. In either event, the Commission should have stated the position it took. It should have stated the facts upon which it made the finding that the benefits were obvious.

One other explanation of the action of the Commission in stating that the benefits were obvious can be that the [fol. 3341] Commission accepted the word of the applicants that the contract actually signed was a better contract than the one which the Commission approved in its order of September 19, 1960.

The Commission should not have accepted this statement of the applicants.

In the proceeding culminating in the order of September 19, 1960, the applicants presented for approval a lease which had not even been presented to the Port District for execution. We pointed out that the lease had not been presented to the Port District and gave reasons why the Port District would not execute it. The applicants did not

deny our statement. They should have stated the facts. The Commission overruled our contentions in its order of September 19, 1960, with the statement that ". . . there is no indication by the parties that such lease would not be executed." (Sheet 11). Thus, the Commission accepted silence as the equivalent of proof that the lease would be executed.

In our petition for reconsideration of the order of September 19, 1960, we pointed out that in July of 1960 a new and radically different document had been agreed to and then withdrawn by the District and that, as of the date of our petition (November 30, 1960), no contract had been agreed to.

In dealing with this whole matter of execution of the agreement which the applicants had presented for approval, the applicants stated in their reply to our petition as follows:

> "The Commission, in its order of October 5, 1959, 307 I.C.C. 493, 525, pointed out that the Port District [fol. 3342] on October 8, 1957 requested the Nickel Plate to construct a track from its right of way east of Lake Calumet to the site of a proposed tank farm to be located just north of the confluence of the Calumet River and the Lake. The Commission further said:
>
> " 'The Nickel Plate emphasizes the fact that it has no intention of filing a section 1(18) application to serve the tank farm, because the construction involved would be purely an industrial spur and of such character as would not require approval by the Commission.'
>
> "The Port District, on July 25, 1960, sent to the Nickel Plate (as well as to the applicants and Rock Island), for execution, the agreement which was drawn by the District in conformance with the Commission's order covering use by the railroads of the tracks of the Chicago Regional Port District. The District urged both the Nickel Plate and Rock Island to become

signatories to the agreement. Both railroads refused to sign and, in later communications between the District and the Nickel Plate, sufficient doubt was created in the minds of the District officials to request that the contract be withdrawn, to make Nickel Plate an exception to the contract, in order to gain assurance of immediate service to the east side of the Lake.

"Nickel Plate and Rock Island seized upon this action as a possible last minute reprieve and have urged reconsideration of the order of the Commission because the agreement had not been executed. What protestants neglected to add was the simple fact that a private industry has now agreed to build the track from the tank farm to the right of way of the Nickel Plate and will request (under section 1(9) of the Act) a switch connection and service from the Nickel Plate.

"Under the circumstances, there will be no need of any material change in the contract, and it will be executed in the near future."

Thus, the applicants did not deny our statements as to the contents of the new contract, but left the Commission to assume that the proposed contract of July 26, 1960, was in fact merely a copy of their agreement which was submitted to the Commission on April 4, 1960 and approved [fol. 3343] in the Commission's order of September 19, 1960, and that the only changes were those necessitated by some local Nickel Plate problems.

Accepting the word of the applicants, the Commission denied our petition for reconsideration.

Not until July 30, 1961, did the applicants file a copy of the new contract with the Commission and nothing further would have been done about it if the Commission had not suggested that the applicants file a petition for approval of it, which they did on or about December 1, 1961.

Further delay ensued when, in response to an order of the Commission dated May 15, 1962, that they file a copy

of the centralized supervision agreement, the applicants showed a lack of candor by referring the Commission to an exhibit in the record as though it had been executed. They did not execute this agreement until specifically ordered by the Commission to do so or suffer a penalty.

Under the circumstances, the Commission should have refused to accept applicants' word that the contract was a better one and should not have absolved them from the duty of furnishing information or attending a hearing. In section III hereof, we point out the misstatements of the applicants in this proceeding which caused the Commission to commit most serious error.

The Commission erred in stating that "... all parties to the agreement will benefit financially ..." by the modifications which we are here discussing. (Sheet 6 of the [fol. 3344] order of November 26, 1962). There is no basis for a finding that the applicants will benefit "financially."

II.

The Commission erred in stating "... we do not deem it proper to revisit upon the applicants and other parties to the proceeding the additional time and expense of a hearing upon the modified agreement." (Sheet 3 of the order of November 26, 1962). The Commission erred in substituting private convenience for public convenience and necessity. The Commission did it before in the statement contained on sheet 8 of its order of September 19, 1960, and, in our petition for reconsideration of that order, we called the attention of the Commission to the error of using private convenience of the parties as a determining factor in deciding whether a hearing should be held.

The Commission erred in further supporting its denial of a hearing upon the ground that we were merely repeating objections to the old plan. (Sheet 3 of the order of November 26, 1962). Every objection we made to the requested approval was specifically directed to matters here involved.

. Actually, our request for a hearing was for a hearing "limited to the facts required to dispose of this petition." Thus, the only evidence which could have been introduced would have been directed to valuations, amount of rent which would be paid and costs of maintenance of tracks.

The applicants certainly had these facts in their possession before they agreed to the contract and the hearing would have been no hardship.

[fol. 3345] III.

The Commission erred in making the statement that:

> "The elimination in the modified agreement of the rental based on the valuation of the trackage provided for in the lease agreement and the charges for locomotives and empty cars using the tracks, referred to in our report of September 19, 1960, will obviously redound to the benefit of the applicants." (Sheet 6).

We have heretofore commented on certain of these statements and showed the error of making them.

The Commission erred in stating that the rent provisions of the contract eliminating the charges for empty cars and providing for a user basis charge of $2 per *revenue* car only, would redound to the benefit of the applicants.

The agreement approved by the Commission in its order of September 19, 1960, provided for a ceiling, and for payments within that ceiling of $2 per revenue car or locomotive handled to or from the property during a calendar year. *No payments were to be made for empty cars.* (The Commission misquoted the terms of the proposed lease in its order of September 19, 1960, in that it stated that the proposed lease provided for payment for the movement of all loaded and empty cars to or from the property.)

The new use agreement approved in the order of November 26, 1962, provides for a $2 charge for revenue cars and also for empty cars, except for empty cars moved prior to or after revenue movements of such cars.

[fol. 3346] The error of the Commission in the order of November 26, 1962 came about because it relied on the applicants' statements contained in their letter reply of December 28, 1961, to the Rock Island-Pullman request for information. In that letter reply, the applicants spoke of " . . . the reduction in the maximum charge of $2.00 per car, loaded or empty, to $2.00 per revenue car . . . ", and finally said:

> "In the final analysis, the uncontroverted fact remains that the conformed copy of the agreement, which was offered by petition of November 27, 1961, for approval of the Commission is *more favorable* to applicants than the agreement approved by the Commission in its report of September 19, 1960." (emphasis not supplied).

Thus the applicants misstated the facts, and the Commission committed error in accepting the misstatement of the applicants. We have already referred to other misstatements of the applicants and said that the Commission should not rely on statements of the applicants. The statement quoted above was completely and clearly erroneous. An examination of the contracts would have disclosed the facts.

Was the actual contract more favorable than the proposed agreement which the Commission approved in the order of September 19, 1960? The answer of the Commission should be "no", if it adheres to its position that the so-called "estimates" were "conservative".

In the actual contract approved in the order of November 26, 1962, the ceiling was eliminated and certain empty cars were to be counted as those for which payment was to be made. (The effect of the elimination of locomotives upon the count, neither we nor the Commission knows).

[fol. 3347] Thus the Commission committed error in reciting the facts as to the contents of the proposed lease (approved by the order of September 19, 1960) and the

actual contract (approved by the order of November 26, 1962), and based on these errors, committed the further error of making a finding that the actual contract was an improvement on the proposed lease.

IV.

The Commission erred in stating that the changes in the contract will " . . . obviously redound to the benefits of the applicants . . . " and that " . . . all parties to the agreement will benefit financially . . . " (Sheet 6). There is no support for these statements, as previously shown by us.

V.

The Commission erred in approving the centralized supervision agreement, knowing that the operation detailed therein will never be an actuality since the District will not add to the port yard (Tr. 82). Additional yard space must be provided outside of the Port District by the railroads and new applications to the Commission for approval of the use of yards outside of the Port District will have to be filed. The Commission has again committed itself to prior approval of new proposals which the Commission knows the applicants must make.

We have heretofore filed petitions for reconsideration of the Commission's reports, certificates and orders of Oc- [fol. 3348] tober 5, 1959, September 19, 1960, and May 15, 1962. We hereby repeat and incorporate herein by reference those petitions for reconsideration.

Wherefore, Rock Island and Pullman respectfully request that the reports, orders and certificates of October 9, 1959, September 19, 1960, May 15, 1962, and November 26, 1962, be reconsidered, revised and stayed, all to the end

of denying all of the applicants' petitions and applications in these proceedings.

Respectfully submitted,

Bruce Dwinell, Theodore E. Desch, 1025 LaSalle Street Station, Chicago 5, Illinois; Joseph B. Fleming, John L. Bordes, Prudential Plaza, Chicago 1, Illinois, Attorneys for Chicago, Rock Island and Pacific Railroad Company and Pullman Railroad Company.

Dated at Chicago, Illinois this 28th day of December, 1962.

Due Date: January 2, 1963.

[fol. 3349] Certificate of Service (omitted in printing).

[fol. 3352]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538[1]

ILLINOIS CENTRAL RAILROAD COMPANY, et al., Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

PETITION OF THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY FOR RECONSIDERATION OF SECOND SUPPLEMENTAL REPORT, CERTIFICATE, AND ORDER OF THE COMMISSION DECIDED NOVEMBER 26, 1962 AND FOR STAY OF OUTSTANDING ORDERS—December 28, 1962

Comes now The New York, Chicago and St. Louis Railroad Company (Nickel Plate) and respectfully files this its petition for reconsideration of the Second Supplemental

---

[1] Also embraces Finance Docket Nos. 19742 and 19921.

Report, Certificate, and Order of the Commission decided November 26, 1962 and for stay of outstanding orders in this proceeding previously reported at 307 I. C. C. 493 and 312 I. C. C. 277.

Background.

This proceeding involves the effort of six railroads (the applicants[2]) to invade the Lake Calumet area, Chicago, [fol. 3353] Illinois, an inland port off Lake Michigan now served by the Rock Island and Pullman Railroads on the west and Nickel Plate on the east. The involved and confused factual situation in this proceeding is the product of the failure of the applicants to file and of the Commission to hear and decide all required applications at one time. To summarize the developments and simplify the facts, it is pointed out that, as the Commission found, it was necessary for the applicants to file three basic applications in order to effectuate their single plan for serving the port, as follows:

(1) trackage rights over existing tracks to the general port area,

(2) construction and operation of a lead track connecting existing tracks with tracks in the port area owned by the Chicago Regional Port District, and

(3) the right to occupy and use said port tracks owned by the Port District.

Applications to authorize only the first two items were filed in 1956 and 1957. In the latter part of 1957, without applications before it as to item 3, the Commission held

---

[2] Illinois Central Railroad Company.
The Pennsylvania Railroad Company.
Chicago, South Shore and South Bend Railroad Company.
The Belt Railway Company of Chicago.
The New York Central Railroad Company.
Indiana Harbor Belt Railroad Company.

the only hearings in the proceeding; this culminated in the report of October 5, 1959 approving these first two items.

The confusion in the proceeding, both initially and as it developed after the October 5, 1959 report, appears most prominently in connection with item 3, above, the right to occupy and use tracks owned by the Chicago Regional Port District. At the 1957 hearings, the Examiner received over objection a proposed Lease of the Port District tracks (Ex. H-64) and a Memorandum of Understanding (Ex. H-29) among the applicants as to their proposed method of [fol. 3354] operation; neither of these documents was executed or had been the subjects of applications or of notice to the interveners prior to the hearings. In its October 5, 1959 report (307 I. C. C. 493) the Commission held it could not approve said lease and memorandum because of their terms and because of applicants' failure to file the required applications; the Commission stated, however, that it would approve the lease if it were modified in specified respects. The applicants subsequently submitted a second proposed lease supposed to reflect the Commission's modifications, and even though the Port District never indicated a willingness to execute the document, the Commission by supplemental report of September 19, 1960 (312 I. C. C. 277) approved said second lease without hearing.

While awaiting Commission approval of the second lease, the Port District on or about July 25, 1960 presented the applicants with a third form of agreement in still different form; this document, which was never submitted to the Commission, was later withdrawn from the applicants by the District (Rock Island's petition for reconsideration of November 7, 1960, pp. 26, 28).

Thereafter, the Port District and the applicants executed a fourth form of agreement for use of the tracks; applicants filed this with the Commission on or about June 12, 1961. By petition dated November 27, 1961 and filed December 1, 1961 applicants requested approval of this fourth form of agreement. Since this document was conditioned upon District approval of a centralized supervision agree-

ment among the applicants as to the manner of operating port tracks, the Commission requested that this latter agreement be filed. The applicants referred the Commis- [fol. 3355] sion back to the unexecuted memorandum of understanding submitted at the 1957 hearings. On August 23, 1962 the Commission gave the applicants another thirty days to submit the centralized supervision agreement in executed form and showing District approval or face denial of their applications, and applicants finally complied on September 25, 1962, six years after the first application was filed in the proceeding. The Second Supplemental Report of November 26, 1962, to which this petition is filed, approved the fourth form of agreement and the centralized supervision agreement.

In effect, the certificate of November 26, 1962, on the basis of evidence submitted in 1957 and findings in both the current and earlier reports, supersedes the certificate of September 19, 1960. The authority on which the applicants would now rely in order to serve the port are the report of October 5, 1959 approving the trackage rights and construction (items 1 and 2) and this latest report authorizing use and occupancy of Port District tracks (item 3).

1. The Commission Erred in Failing to Hear and Decide Simultaneously All Applications Required to Effectuate Applicants' Plan to Serve the Port. This Is So Both as to Its Prior Decisions and as to the Instant Report Stating (Sheet 3)—

> "• • • the general public convenience and necessity for the applicants' operations over District's tracks has been determined with only the specific terms and conditions of such operations remaining for approval, • • • ."

[fol. 3356] In its October 5, 1959 report (307 I. C. C. 493), the Commission correctly stated, without exception from any party:

"Orderly procedure dictates that all applications required to effect the entire plan be heard simultaneously, particularly, as here, where the evidence to be presented in support of the construction and trackage rights is identical." (p. 496)

Nevertheless, even though required applications for occupancy and use of the port tracks had not been filed, the Commission held hearings in 1957 and approved the trackage and construction contracts in 1959. Such action violated the above-quoted holding and denied interveners orderly procedure, notice of issues as to such use and occupancy, and due process of law.

When, in April and May, 1960 and later by petition dated November 27, 1961, the applicants finally sought authority for lease or occupancy of the port tracks and to operate the same, the Commission issued its First and then its Second Supplemental Reports approving such requests without hearings or the receipt of any evidence. Admittedly, the latest report decided convenience and necessity on "only the specific terms and conditions of such operations remaining for approval."

There has never been a simultaneous hearing on all the required applications even though, as quoted above, the Commission has held that to be necessary for orderly procedure. Applications filed in 1956 and 1957 and hearings held in 1957 did not provide due notice of the agreement with the Port District sought to be approved five years later by the November 27, 1961 petition. Nor could find-[fol. 3357] ings of fact resulting from a 1957 hearing provide a basis for approving the November 27, 1961 petition, the contents of which were not and could not have been known in 1957. As a result, since the plan for service is an entirety, as the Commission has recognized, all of the Commission's orders in this proceeding must fall as contrary to orderly procedure and due process.

2. The Commission Erred in Prejudging the Applications to Occupy and Use Port District Tracks, as Evidenced

by the Following Statement in the Second Supplemental Report of November 26, 1962:

> "• • • most of the interveners' objections to the modified agreement are actually only reiterations of their objections to the overall proposals of the applicants to serve the harbor area which have been previously discussed and disposed of in our prior report and orders herein, • • • ." (Sheet 3)

The modified agreement now approved by the Commission is dated June 12, 1961 and was the subject of petition dated November 27, 1961. It is the fourth form of agreement for occupancy of District tracks and differs substantially from prior drafts in respect of the interest acquired, the consideration to be paid, and the rights of the parties. To hold that objections to this last agreement were previously discussed and disposed of in reports of October 5, 1959 and September 19, 1960, when essential elements of the revised agreement were still unknown, clearly indicates prejudgment of the issues by the Commission. This is exactly what occurred in respect of the second modified agreement approved in the report of September 19, 1960. [fol. 3358] Not only did the Commission fail to hold hearings or receive evidence on this last agreement, but it has never required applicants to file applications containing the information necessary under the Commission's Rules of Practice, such as valuation and estimated net income (49 C. F. R. §§ 41.1-41.8; 52.2-52.3).

This prejudgment constituted another aspect of the denial of orderly procedure and due process.

3. The Commission Erred in Deciding Its Second Supplemental Report of November 26, 1962 on a Stale Record.

The evidence in this case was submitted in the fall of 1957. Public convenience and necessity were advocated by the applicants on the basis of estimates made in 1957 of then future traffic as follows (Tr. 60-68; 114-123):

End of 1958	27,000 cars per year
End of 1962	76,500—77,500 cars per year
End of 1968, with west side completed	114,750—116,000 cars per year
with east side also completed	250,000 cars per year.

Nevertheless, without receiving any additional evidence showing whether the estimates had been fulfilled, although interveners have offered to submit proof as to the number of cars actually handled to and from the port in each year since the 1957 hearings, the Commission proceeded to issue its Supplemental Reports of September 19, 1960 and November 26, 1962. In other words, five years and shipping seasons have now passed, during which period the St. Lawrence Seaway has been placed in operation, and the Commission has refused to avail itself of essential evidence [fol. 3359] as to public convenience and necessity required to determine the impact of the Seaway on Port District rail traffic. The evidence before the Commission is unquestionably stale, and such staleness attending the proceeding is solely chargeable to the applicants' failure, both initially and as the proceeding progressed, to file appropriate applications and contracts. Thus, even though the original applications were filed in 1956 and 1957, the latest petition for authority to use the Port District tracks was not filed until December 1, 1961 and evidence of the Port District's consent to the centralized supervision agreement was not filed until September 19, 1962.

4. The Commission Erred in Issuing Its Report in View of Its Admission That It Lacked Information as to Value of Tracks and Volume of Traffic Anticipated Thereover, as Set Forth in Its Second Supplemental Report of November 26, 1962:

"We do not agree with the interveners that lack of information concerning the future value of the tracks

or the volume of traffic anticipated thereover bars approval of the modified agreement." (Sheet 5)

This admission by the Commission that it lacks information concerning the value of the tracks and volume of anticipated traffic condemns the entire Second Supplemental Report and confirms Nickel Plate's contention that applicants never have fulfilled their statutory burdens of proof. This admission undermines the report from the standpoints of (1) reasonableness of the consideration to be paid and (2) public convenience and necessity.

[fol. 3360] 1. Applicants have not proved and the Commission has not found that the consideration to be paid for use of the Port District tracks is reasonable.

Sub-exception—As shown in the following statement, the Commission approved a different consideration from that agreed upon and submitted for approval:

> "The modified agreement removes the valuation basis for rental payments and substitutes therefor a flat, user-basis charge of $2.00 per revenue car only." (Sheet 5)

Sub-exception—The misstatement of the actual consideration made erroneous the following findings:

> "We believe that rentals generally may be considered reasonable where, *as here,* the facts of record disclose that non-affiliated parties, after bargaining at arms length, have entered into an agreement under which increased service will be offered to the public, all parties to the agreement will benefit financially, and the interveners' ability to continue to serve the public will not be impaired." (Sheet 6.) (Emphasis supplied.)

The interveners had pointed out, as stated on Sheet 5 of the aforementioned Second Supplemental Report, that

if the volume of traffic predicted in 1957 materialized (76,500 to 77,500 loaded cars by the end of 1962), the consideration of $2.00 per loaded car would be unreasonable; if it had not materialized, there would be no need for applicants' service. The Commission chose only to consider and discuss aspects of the issue of reasonableness of the consideration. Since the Commission did not have evidence as to the estimated volume of traffic, it could not determine the expense to applicants of operating Port Dis- [fol. 3361] trict tracks, both as to rental and train operation expenses. Furthermore, since it lacked evidence as to value of the tracks to be used, it could not determine whether the rental expense was reasonable. This was open error on the issue of the reasonableness of the consideration.

As the quotation in above sub-exception shows, the Commission assumed erroneously that under the fourth agreement applicants would pay to the Port District a flat user-basis charge of $2.00 per revenue car only. This, it was held, was in substitution for an annual rental under the second agreement of 5% of valuation subject to a maximum charge of $2.00 per car, loaded or empty, or locomotive handled to or from District's property (Sheet 5, lines 1-5).

The fact is that under the previously approved lease the maximum charge was based on *loaded* cars and locomotives *only,* while the current agreement covers all loaded cars *and all empties,* except where the empty has a one-way revenue move in or out of the port. That this change in the consideration was substantial is evidenced by the letter of November 9, 1961 from Mr. V. V. Baker, Director of the Commission's Bureau of Finance, to the applicants, stating:

> "Although some of the changes in the conformed copy of the lease agreement appear to consist of immaterial rewordings of the approved agreement, there

are certain substantive changes, among others the change in the basis for computing rental payments, which in my opinion require approval of the Commission before the agreement lawfully may be made effective."

[fol. 3362] Since Commission approved a substantially different consideration from that contained in the agreement submitted to it, all findings in respect of that consideration are without value.

2. Applicants failed to prove that present and future public convenience and necessity require their service.

The Commission's admission on Sheet 5 of its November 26, 1962 Second Supplemental Report that there was a "lack of information * * * concerning the volume of traffic anticipated" is equally serious on the issue of public convenience and necessity. Earlier on Sheet 3 of said report the Commission had indicated that it was here determining public convenience and necessity for the terms and conditions of applicants' operations over District's tracks. It could not properly decide such convenience and necessity without evidence as to the past and anticipated volume of traffic. Issuance of the report and order of November 26, 1962 under such circumstances and state of the record is further indication of prejudgment of these applications.

As stated repeatedly, current information as to the value of the tracks and volume of traffic could have been readily developed at a hearing and the refusal to obtain such information indicates further a failure to observe orderly procedure.

[fol. 3363] 5. The Commission Erred in Delegating to the Chicago Regional Port District the Right to Require Changes in the Method of Serving the Port.

The fourth modified agreement permitting applicants to use Port District tracks provides:

"Before this agreement shall become operative, THE RAILROADS which are parties hereto, shall submit to THE DISTRICT an agreement, in form and substance satisfactory to it, between said railroads providing for a centralized supervision of the operation, maintenance and repair of THE DISTRICT's track, appurtenances and facilities covered hereby; and THE DISTRICT retains the right to require, from time to time, changes and modifications in such agreement when, in its opinion, a coordinated service in the use of its tracks and facilities makes such changes and modifications necessary." (p. 4.)

In its November 26, 1962 report the Commission not only approved the centralized supervision agreement setting forth the proposed method of serving the port but also the fourth Port District contract including above quoted provision, stating (Sheet 8):

"Howover, no change in the terms *of the modified agreement* resulting from a revision of the centralized supervision agreement is to be effected without our prior approval." (Emphasis supplied.)

This completely begs the question. The question is not whether change of the centralized supervision agreement will cause a change of the modified contract with the Port District, but whether the Port District contract as now written is to be approved with an unprecedented delega- [fol. 3364] tion of Commission power to the District to change the method of service. A revision of the centralized supervision agreement by the Port District will not require any change in the modified agreement with the District as now executed. In other words, the Commission has held that if the method of operation which it has approved is unsatisfactory to the District for any reason, the District may order such change of applicants' operations in serving the port as it desires, even though the District is neither a shipper nor a user of the service. Not only is this an im-

proper delegation of power to the Port District but it brings into question whether such control over operations creates a carrier status for the Port District, requiring an application on its part.

Evidently the implications of this delegation of authority are not sufficiently realized. The centralized supervision agreement provides that each of the applicants shall deliver inbound cars and receive outbound cars at the Port District yard. This involves not only service on port tracks but also operations on the lead track to be constructed and in the trackage rights areas used to reach the port. The Commission does not have the authority to delegate to the Port District the power to change the manner of reaching the port.

Having determined to approve these applications, contrary to interveners' contentions, the Commission should have held that the centralized supervision agreement and method of serving the port cannot be changed without Commission approval. It should have deleted this delegation of power and authority to the Port District from the modified agreement.

[fol. 3365] Conclusion

The factual and legal problems in this proceeding stem from several causes, principally:

a. applicants' failure from the beginning to file appropriate applications;

b. the Commission's determination to hear and decide the initial applications without having all required applications before it;

c. the attempt by the applicants to cure the deficiencies in their applications by subsequent and repeated filings of superseding documents;

d. the piecemeal decisions by the Commission on subsequently filed documents without hearing or current evidence.

This procedure, to which Nickel Plate has objected from the beginning, has led to delay, a stale record, and incorrect holdings on such matters as the consideration to be paid and public convenience and necessity.

Nickel Plate has heretofore filed petitions for reconsideration of the reports, certificates, and orders of October 5, 1959 and September 19, 1960 covering the above and other matters. Although the Commission has denied such petitions, they are here repeated and reincorporated by reference.

Wherefore, Nickel Plate respectfully requests that the Second Supplemental Report, Order, and Certificate of November 26, 1962, as well as all previous reports, orders and certificates, be reconsidered, reversed, and stayed, all [fol. 3366] to the end of denying all of applicants' applications and petitions in this proceeding.

Respectfully submitted,

Thomas O. Broker, Counsel for The New York, Chicago and St. Louis Railroad Company, P. O. Box 6119, Cleveland 1, Ohio.

Dated: December 28, 1962.

Due Date: January 2, 1963.

Certificate of Service (omitted in printing).

[fol. 3369]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19538*

ILLINOIS CENTRAL RAILROAD COMPANY, et al.—Construction and Trackage Rights—Lake Calumet Harbor, Cook County, Illinois.

REPLY OF APPLICANTS TO LATEST PETITIONS FOR RECONSIDERATION—Filed January 18, 1963

Come now applicants, Illinois Central Railroad Company, The Pennsylvania Railroad Company, Chicago South Shore and South Bend Railroad, The Belt Railway Company of Chicago, The Michigan Central Railroad Company, The New York Central Railroad Company, and Indiana Harbor Belt Railroad Company, and in reply to the latest petitions of Chicago Rock Island and Pacific (Rock Island) and New York, Chicago and St. Louis Railroad (Nickel Plate), for reconsideration, state that the documents do not differ in nature or content from the four preceding petitions for reconsideration filed by both Nickel Plate and Rock Island, and should be denied under Section 1.101(f) of the General Rules of Practice.

From the time of the filing of the applications on October 19, 1956 up to the present, the Rock Island and Nickel [fol. 3369a] Plate have used every conceivable device to impede the efforts of applicants to serve the facilities of the Chicago Regional Port District at Lake Calumet Harbor although the Examiner and later the Commission found from the evidence that the present and future public convenience and necessity warranted the grant of authority to applicants to so serve said facilities.

The following chronology of proceedings more fully describes the procedures employed to frustrate applicants' exercise of such authority:—

Chronology of Proceedings

October 19, 1956	Applications filed under Section 1(18) and 5(2) of the Interstate Commerce Act — subsequently the return to questionnaire.
September 30, 1957	Hearing before Examiner Paul Albus in Chicago—extending to October 11, 1957.
February 10, 1958	Briefs filed.
July 31, 1958	Examiner Albus issued a proposed report and order recommending the granting of the applications.
November 1, 1958	Exceptions to the proposed report filed on behalf of the Chicago, Rock Island & Pacific RR. and New York, Chicago & St. Louis RR.
January 5, 1959	Replies to exceptions filed by applicants and intervenors.
January 21, 1959	Petition filed by Rock Island to file a reply to the reply of the applicants.
[fol. 3369b]	
January 26, 1959	Reply to said petition filed by applicants whereupon petition was denied by Commission.
April 2, 1959	Oral Argument before full Commission.
October 5, 1959	Report and order of I.C.C. granting authority to the applicants.
November 16, 1959	First petitions for reconsideration filed by Nickel Plate and Rock Island.

December 30, 1959	Replies of applicants and intervenors to the first petitions for reconsideration.
January 6, 1960	Motion to strike filed by Nickel Plate.
April 4, 1960	Supplements to applications filed by applicants asking for the authority to serve facilities and industries located on the tracks of the Chicago Regional Port District.
April 4 & 7, 1960	Complaints filed in the Statutory three judge Federal Court in Cleveland by Nickel Plate and Rock Island. Answer to the Complaints was postponed by agreement pending final disposition of Commission on supplemental applications.
April 20, 1960	Rock Island filed protests and intervening petition to the supplemental applications, seeking a reopening and further hearing of the case.
May 10, 1960	Reply filed by applicants to said petition.

[fol. 3370]

September 19, 1960	Supplemental Report of the Commission issued in favor of applicants denying Rock Island's petition and directing certain changes be made in the contract between applicants and the Chicago Regional Port District.
November 7, 1960	Second Petitions for Reconsideration filed by Nickel Plate and by Rock Island.

December 5, 1960	Reply to second Petitions for Reconsideration filed by applicant and intervenors.
April 18, 1960	Order issued by I.C.C. denying petitions for reconsideration.
July 31, 1961	Applicants filed with the Commission conformed copies of an agreement for the non-exclusive use of the Chicago Regional Port District's railroad tracks and port facilities between the Port District and applicants'.
August 9, 1961	Letter addressed by the Rock Island to the Commission alleging a difference existed between contract approved by the Commission and the contract filed by the applicants.
November 9, 1961	Letter to Counsel, Wm. J. O'Brien, Jr. from Director V. V. Baker, stating that from an examination of the submitted conformed agreement there appeared to be differences between it and the proposed lease agreement approved by the Commission, by its supplemental report and order dated September 19, 1960, and suggesting the filing of a Petition for approval of the modifications proposed.
[fol. 3371] November 27, 1961	Petition for approval of an agreement for non-exclusive use of the Chicago Regional Port District's railroad trackage, as modified, filed by applicants.

December 17, 1961	Motion of Rock Island asking the Commission to direct applicants to furnish additional information to permit Rock Island to reply to applicants' petition for approval of the agreement.
December 15, 1961	"Reply" of Nickel Plate to petition of applicants for approval of the agreement.
December 28, 1961	Letter reply by Counsel, Wm. J. O'Brien, Jr., to Honorable Harold D. McCoy, Secretary, to the motion of Rock Island.
May 15, 1962	An order of the Commission denying Rock Island's motion and requiring applicants to submit for consideration of the Commission 15 copies of centralized supervision agreement.
May 22, 1962	Applicants submission in compliance with the Commission's order of May 15, 1962. Petition of Rock Island for reconsideration of the order and request for a further hearing.
June 7, 1962	"Reply" to applicants submission of May 22 (actually third petition for reconsideration) of the Nickel Plate.
[fol. 3372] June 11, 1962	Letter reply of applicants to Secretary McCoy addressed to the petition of Rock Island for reconsideration of the order of the Commission, to the reply to applicants' petition for approval of the use of the Chicago Regional Port District tracks, and to request for further hearing.

August 23, 1962	The I.C.C., by order, denied the petition of Rock Island for reconsideration and ordered the applicants to submit an agreement properly executed by all parties applicant to the Chicago Regional Port District for Commission's consideration in connection with the modified use agreement.
September 25, 1962	Submission, by applicants, in compliance with Commission's orders dated May 15, 1962 and August 23, 1962.
October 10 & 11, 1962	"Replies" of the Nickel Plate and Rock Island to applicants' submission in compliance with the Commission's order (actually the 4th petition for reconsideration).
November 26, 1962	Second supplemental certificate issued by the I.C.C. authorizing operation by applicants over the tracks of the Chicago Regional Port District.
December 28, 1962	Petitions of the Nickel Plate and of Rock Island (5th petition) for reconsideration.

While Rock Island and Nickel Plate continue, as in the past, to belabor the modified agreement approved by the Commission covering the non-exclusive use of the Port [fol. 3373] District facilities, it should be emphasized again, as stated in the letter replies of December 28, 1961 and June 11, 1962 that the modified agreement *is more favorable* to applicants than the agreement approved by the Commission in its report of September 19, 1960.

The agreement, based entirely on the amount of traffic handled through the port district, i.e., $2.00 per *revenue* car* as a fixed minimum-maximum charge, is beneficial to all parties particularly in view of the increase in traffic which applicants' service will stimulate.

Complaints by Nickel Plate and Rock Island were filed in the Statutory three judge Federal Court in Cleveland on April 4 and 7, 1960. Since that time Nickel Plate and Rock Island have not only exhausted their administrative remedies, but have exhausted the patience of applicants and the shipping public at Lake Calumet Harbor. We respectfully submit that the latest petitions for reconsideration should be denied and that the way be cleared to afford the public the benefit of the service proposed by applicants which the Commission found to be necessary.

Respectfully submitted,

Robert H. Bierma, Richard T. Cubbage, Franklin C. Gagen, Richard O. Olson, Edmund A. Schroer, Frank F. Vesper, William J. O'Brien, Jr., Attorneys for Applicants.

135 East Eleventh Place,
Chicago 5, Illinois,

Date Due: January 22, 1963.

[fol. 3374] Certificate of Service (omitted in printing).

---

* The agreement approved by the Commission in its report of September 19, 1960 provided for a rental based on 5% of the valuation of the leased property with a maximum payment equal to $2.00 per car, *loaded* or *empty*.

[fol. 3375]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Service Date March 25, 1963

Finance Docket No. 19538

ILLINOIS CENTRAL RAILROAD COMPANY et al., Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Illinois.

Finance Docket No. 19742

BELT RAILWAY COMPANY OF CHICAGO Trackage Rights, etc.

Finance Docket No. 19921

MICHIGAN CENTRAL RAILROAD COMPANY, et al., Trackage Rights.

ORDER DENYING PETITIONS FOR RECONSIDERATION—
March 18, 1963

Upon consideration of the record in the above-entitled proceedings, including the petitions filed on December 31, 1962, by the Chicago, Rock Island and Pacific Railroad Company, jointly with the Pullman Railroad Company, and by The New York, Chicago and St. Louis Railroad Company for reconsideration of the second supplemental report and order of the Commission dated November 26, 1962, and previous reports and orders in the proceedings, and for staying of said previous reports and orders, and the reply to said petitions filed by the applicants; and

It appearing, That one of the arguments advanced by petitioners concerns the following paragraph in said report:

> The lease agreement provides for an annual rental based on five percent of an agreed valuation of the properties involved with the maximum payable in any calendar year not to exceed an amount equivalent to $2.00 per car, loaded or empty, or locomotive handled to or from District's property during such calendar years. The modified agreement removes the valuation basis for rental payments and substitutes therefor a flat, user-basis charge of $2.00 per revenue car only.

It further appearing, That said paragraph is subject to misinterpretation in that it fails to point out that empty cars resulting from a revenue movement will be handled without charge and that a charge of $2.00 has been agreed upon for any non-revenue car entering the port property involved in the proceedings; that said paragraph should be modified to reflect the foregoing; and that said modification will have no effect upon the findings of public convenience and necessity made in said report; and

It further appearing, That petitions for reconsideration of the previous reports and orders in the proceedings have been considered and disposed of by appropriate orders of the Commission, and except for the argument in regard to rental payments referred to above, which does not warrant reconsideration of the report and order of November 26, 1962, the material matters set forth in the petitions in regard to said report and order have been considered by the Commission and discussed in its report, that the decision is based on adequate findings supported by the record, that there has been no error of fact or law with respect [fol. 3376] to the matters complained of by said petitioners, and that no showing has been made warranting recon-

sideration of said decision or the reconsideration or stay of the previous reports and orders in the proceedings;

It is ordered, That the paragraph in regard to rental payments referred to above be modified to read as follows:

> The lease provides for an annual rental based on five percent of an agreed valuation of the properties involved with the maximum payable in any calendar year not to exceed an amount equivalent to $2.00 per car, loaded or empty, or locomotive handled to or from District's property during such calendar year. The modified agreement removes the valuation basis for rental payments and substitutes therefor a flat, user-basis charge of $2.00 for each loaded or partially loaded revenue car handled to or from District's property and for each non-revenue car entering the property. Empty cars leaving or entering the property as the result of a revenue movement will be handled by the applicants without charge thereto.

And it is further ordered, That said petitions be, and they are hereby, denied.

By the Commission.

Harold D. McCoy, Secretary.

[fol. 3378]

BEFORE THE INTERSTATE COMMERCE COMMISSION

F. D. 19448

In the Matter of:

Application of THE MICHIGAN CENTRAL RAILROAD COMPANY, THE NEW YORK CENTRAL RAILROAD COMPANY and THE INDIANA HARBOR BELT RAILROAD COMPANY for Authority for Construction by the First Named Company and for Operation by the Latter Companies of a Line of Railroad from 126th Street, Chicago, to the Lake Calumet Harbor Port of Chicago, in Cook County, Ill.

F. D. 19538

Application of THE ILLINOIS CENTRAL RAILROAD COMPANY, THE KENSINGTON AND EASTERN RAILROAD COMPANY, THE PHILADELPHIA, BALTIMORE AND WASHINGTON RAILROAD COMPANY, and THE PENNA. RAILROAD COMPANY for Authority to Construct and Operate Connection Tracks from a Point near Doty Avenue, Chicago, to the Lake Calumet Harbor Port of Chicago, in Cook County, Illinois, and for Authority of the First and Last Named Company and the Chicago, South Shore and South Bend Railroad to Acquire Trackage Rights over the Proposed and Certain Existing Tracks.

F. D. 19742

Application of THE BELT RAILWAY COMPANY OF CHICAGO for Authority to Acquire Trackage Rights over Lines of Railroad Leading to the Lake Calumet Harbor Port of Chicago, Illinois Owned, Operated, or to Be Constructed by ILLINOIS CENTRAL RAILROAD COMPANY, THE KENSINGTON AND EASTERN RAILROAD COMPANY, THE CHICAGO, SOUTH SHORE AND SOUTH BEND RAILROAD, and THE PENNSYLVANIA RAILROAD COMPANY.

F. D. 19921

Application of THE MICHIGAN CENTRAL RAILROAD COMPANY, THE NEW YORK CENTRAL RAILROAD Co. and INDIANA HARBOR BELT RAILROAD COMPANY for Authority to Acquire Trackage Rights on Behalf of THE NEW YORK CENTRAL RAILROAD COMPANY and INDIANA HARBOR BELT RAILROAD COMPANY over the Lines of Railroad Owned or Operated by ILLINOIS CENTRAL RAILROAD COMPANY, KENSINGTON & EASTERN RAILROAD Co., CHICAGO, SOUTH SHORE & SOUTH BEND RAILROAD and THE PENNSYLVANIA RAILROAD COMPANY.

[fol. 3379]

Parlors A, B, and C,
Midland Hotel,
Chicago, Illinois.

Transcript of Hearing—Monday, September 30, 1957

Met, pursuant to notice, at 10:00 o'clock a.m.
Before: Paul C. Albus, Examiner.

* * * * * * *

[fol. 3388] Mr. Dwinell: Yes, Mr. Examiner. Our understanding of the issue in this case is that all applications are for the purpose of handling import and export business only to and from the Port District Harbor of Chicago, that they do not seek to handle any intrastate or interstate business to or from the district. Unless there is an agree-

ment on that from the other side, I have a statement which I would like to make in support of my statement.

Mr. Bierma: Mr. Examiner, there is no such qualification [fol. 3389] in any of the applications that have been filed. We plan to handle interstate business to and from the area over which the port has jurisdiction. We have no such limitation at all as to import or export trade.

Mr. Dwinell: Is that true as to all applicants?

Mr. Osmond: On behalf of the Belt I would like to say we concur with the statement.

Mr. O'Brien: Same on behalf of the Illinois Central.

Mr. Olson: Same for the New York Central.

Mr. Schroer: Same on behalf of the Chicago South Shore & South Bend.

Mr. Dwinell: I would like to make a statement.

Exam. Albus: Very well. Proceed.

Mr. Dwinell: Which is not a short statement, Mr. Examiner, but is so important that I think it is worthwhile taking the time of the examiner to state our position in full. I have copies for distribution.

Exam. Albus: Very well.

Proceed.

STATEMENT BY MR. DWINELL

Mr. Dwinell: At the very opening of this hearing I desire to review the pleadings leading to a statement of our position as to the issue in this proceeding.

• • • • • • •

[fol. 3391] Mr. Dwinell: As a preliminary to my review of the pleadings, I would like to say that a piece of property located on the southerly edge of Lake Calumet and bounded on the east by the turning basin, on the south by 130th Street, and on the west by the property of the Port District has been owned and occupied for many years by the Calumet Harbor Terminals which has conducted a warehousing facility and a facility used for the transfer of cargo from water to land and vice versa. This

industry has been served for many years by the Rock Island Railroad exclusively. In the early part of 1956 this property consisting of many acres was purchased by Pennsylvania Railroad, it taking title in the name of its subsidiaries. We are of the opinion and state the fact to be that the Pennsylvania Railroad has leased back to Overseas Shipping, Inc., a corporation controlled by the former owners of the Calumet Harbor Terminal, that portion of the property purchased by the Pennsylvania Railroad which abuts the lake. We are of the opinion and state the fact to be that the Pennsylvania Railroad has not obligated itself as to the use by any other person of the balance of the property owned by it and abutting the Port District property. It is upon this portion located away from the lake upon which the Pennsylvania Railroad pro-
[fol. 3392] poses to build a part of the track which it states in its application it proposes to build;

In other words they purchased land on which to build a part of their approach.

The Rock Island has continued to serve the Calumet Harbor Terminal or Overseas Shipping, Inc., its successor, exclusively since its purchase by the Pennsylvania Railroad.

• • • • • • •

[fol. 3393] Mr. Dwinell: The land and buildings now occupied by this industry fronting on the lake have been owned by the Pennsylvania Railroad since 1956. The application of the Illinois Central, the Pennsylvania and the South Shore—Finance Docket No. 19538—provides that the Pennsylvania proposes to build a track to a connection with existing tracks of the Chicago Regional Port District. This track will be built over the land owned by it and not leased to this industry and over certain land owned by the Chicago Regional Port District.

Their application states in its first paragraph that by this application the Illinois Central, the Pennsylvania and the South Shore "seek to extend their operations to serve the Lake Calumet Harbor District."

Paragraph (h) of the application states that "The proposed construction is required in order that the Illinois Central, Pennsylvania and South Shore may serve present and future industries, elevators, warehouses, docks and piers in the Calumet Harbor Port area."

In paragraph (1) on page 23 of the application it is stated "That the extension of operations by applicants to the Calumet Harbor Port area is not only consistent with public interest but required by the public convenience and necessity . . ."

In the Return to the Questionnaire filed by the Illinois [fol. 3394] Central and The Pennsylvania Railroad—and I think perhaps I should have included there, the South Shore—applicants state—page 5—that "The line proposed to be constructed and operated will receive material revenue from freight traffic to be handled to and from industries, elevators, warehouses, docks and piers, presently operating in the Calumet Harbor Port area, in addition to those facilities to be constructed with the further development of the area."

In paragraph 10 of the Answer to Questionnaire, these applicants state that "The Lake Calumet Port District, which the proposed line will serve is currently served by the Chicago, Rock Island and Pacific Railroad Company by virtue of its acquisition of the Pullman Railroad Company, through purchase of capital stock, and lease by the former of the railroad property of the latter approved and authorized by the Commission in Finance Docket No. 16252, Pullman Railroad Company Control, decided November 17, 1949."

In paragraph 17 of the Return to Questionnaire these applicants state that "the area served by the proposed new extension is to be used for the development of an inland port facility and general industrial development."

In paragraph 18 of the Return to Questionnaire these applicants state "The Lake Calumet Harbor Terminals and the Chicago Regional Port District have at present docks, piers, elevators and warehouses, and are engaged

in the warehousing and transfer of freight between ships, [fol. 3395] barges, motor trucks and railroads in the Lake Calumet Harbor area" and that "additional elevators and warehouses are under construction, all increasing the great potential of the area of the Port itself."

In paragraph 21 of the Answer to Questionnaire the statement is made that "The chief support of the proposed line would be derived from export, import and domestic freight, to be interchanged between railroads, ships and barges in the Calumet Harbor area, having origin or destination in territory served by applicants."

The application of the Belt Railroad—opening paragraph—states that it "seeks authority from the Commission to acquire trackage rights over lines of railroad in the Chicago area permitting it to operate from a point on its lines at or near 95th Street in the City of Chicago to a point on the railroad tracks of the Chicago Regional Port District on the west side of Lake Calumet Harbor, near 130th Street, in the City of Chicago."

At page 12 of the Belt application the statement is made that "The Lake Calumet Harbor, Port of Chicago of the Chicago Regional Port District is being developed as a complete port for the handling of interstate and foreign commerce by water on the Great Lakes, the St. Lawrence Seaway and on the high seas. It is not proper nor in the public interest to limit service at a port to the control of one carrier . . . It is surely consistent with the public in- [fol. 3396] terest that such a carrier be permitted access to this Port area."

In the caption to their application, Finance Docket No. 19448, the Michigan Central, New York Central and Indiana Harbor Belt indicated they were asking authority to construct a line of railroad "to the Lake Calumet Harbor Port of Chicago, of the Chicago Regional Port District, County of Cook, State of Illinois."

Paragraph (h) of this application states that the present and future public convenience and necessity require and will require the proposed construction "for the purpose of reach-

ing the port facilities now under construction by the Chicago Regional Port District . . . and so that the further development of the potential industrial districts involved may be expedited and interstate, foreign and overseas commerce may be moved efficiently to and from the Lake Calumet Harbor of the Chicago Regional Port Authority."

Answer 5(a) of the Return to Questionnaire of the 1(18) application of the Michigan Central, et al. states "That the chief uses and purposes of the proposed new extension will be to afford the public and the applicants access to the proposed port facilities now under construction by the Chicago Regional Port District, and those facilities to be constructed by the Chicago Regional Port District."

Answer 6(a) states that "The classes of service to be [fol. 3397] performed on the proposed new extension of line are freight linehaul business by the New York Central and switching by Indiana Harbor Belt to and from the Lake Calumet Harbor Port . . ."

In answer 10(a) the statement is made that "The Lake Calumet Port District is currently served by the Chicago, Rock Island & Pacific Railroad by virtue of its acquisition of the Pullman Railroad Company through purchase of capital stock, and lease by the former of the railroad property of the latter approved and authorized by this Commission in Finance Docket No. 16252 entitled Pullman Railroad Company Control, decided November 17, 1949."

Answer 17(a) states that " . . . the area served by the proposed new extension of line is to be used primarily for development as an inland port facility and at the present time is substantially vacant property available for industrial development."

In answer 18(a) the applicants state that "The proposed extension is planned to serve the Lake Calumet Port which is developing not only as a seaport but as an important industrial area in territory contiguous to the Port itself."

I would like to go off the record here just a second.

(Discussion off the record.)

Mr. Dwinell: In answer 19(a) applicants state that "The Chicago Regional Port authority acquired Lake Calumet [fol. 3398] from the City of Chicago on April 19, 1955, after many years of planning, and is presently constructing large elevators, warehouses, transit sheds, docks and railroad facilities for leasing to potential industries. It is anticipated that all of the vacant land and other facilities will be completely utilized by the Port and industries within the next ten years."

In answer 20(a) the statement is made that the Rock Island will serve the prospective industries.

In answer 21(a) the statement is made that "Upon completion of the facilities now under construction by the Chicago Port authority and the locating and operation of industries in that area, a substantial amount of import and export traffic will be developed having origin and destination in territory served by the New York Central and Indiana Harbor Belt and their connections. It is also anticipated that there will be a large amount of domestic traffic to and from manufacturing and industrial plants to be located in this territory with its expected area comprising 3,500 acres."

In the first paragraph of the application of the Michigan Central, New York Central and Indiana Harbor Belt—Finance Docket No. 19921—it is stated that this application is for authority to acquire trackage rights over the lines of various railroad companies "to the connection of The Pennsylvania Railroad Company with The Chicago [fol. 3399] Regional Port District."

In paragraph C-1 on page 20 of this application, the statement is made that the trackage rights are required "to enable them to operate . . . to a connection with the tracks of the Chicago Regional Port District."

In paragraph (d)1(1)—page 24—reference is made to application filed in Finance Docket No. 19448 by the same parties under Section 1(18) of the Act and incorporates the statements therein made as to public convenience and necessity as providing support for this application.

I would like to interject at that point the statement that Mr. Olson made a few minutes ago, that the second New York Central-Indiana Harbor Belt application for trackage rights does not deviate from former applications except that this is for trackage rights, and the former was for an extension of line.

Mr. Olson: I wish to have it corrected. I did not state that in that form. I said it is substantially the same except for the mode of entry; that is, in this proceeding, 19921, we are seeking entrance by virtue of trackage rights over other railroads.

Exam. Albus: The record will show what you said, proceed.

Mr. Olson: I just wanted to clarify it.

Mr. Dwinell: The applications of the Illinois Central, [fol. 3400] The Pennsylvania and South Shore were filed in October 1956. To these applications the Rock Island filed a petition to intervene, expressing opposition to the granting of the relief sought and this petition for leave to intervene was granted. The application of the Michigan Central, New York Central and Indiana Harbor Belt, F.D. 19448, was filed in August 1956. The Rock Island's petition for intervention in that case was granted by the Commission.

The Belt application, F.D. 19742, was filed in April 1957 and to this application the Rock Island filed a petition for leave to intervene, alleging that it was serving and would continue to serve the territory desired to be reached by the Belt and that it opposed the granting of the application. Thereupon, on May 7, 1957 the Belt Railroad filed an "Opposition and Brief in support of opposition to petition of Chicago, Rock Island and Pacific Railroad Company and Pullman Railroad Company for leave to intervene."

This opposition was, of course, a denial of any right of the Rock Island to intervene on any basis. It was a complete denial of our rights in the premises.

The first paragraph of the brief sets forth the basis of the opposition of the Belt to the Rock Island's intervention and reads:

"The Belt Railway Company of Chicago by and through its application to the Commission, seeks to secure approval [fol. 3401] by the Commission of trackage rights to place the Belt in a position to lawfully handle export and import traffic, the movement of which through the Lake Calumet Harbor Port area is anticipated in the future. The Belt does not seek through approval of its trackage agreements, to encroach upon any traffic now originating or terminating at industries served by the Rock Island or Pullman Railroad Company and it does not seek to encroach upon any export or import business now being handled lawfully by the Rock Island or Pullman."

In short, the position asserted by the Belt in its brief was that the Rock Island Railroad had no right to handle any export or import business through the port and that this application of the Belt was solely to acquire the right to handle export and import business and since the Belt was asking for authority to handle export and import business only, and since the Rock Island had no right to handle any export or import business, it followed that the Rock Island had no legal right which it could defend and, therefore, had no right to intervene at all in the case.

The Rock Island filed a reply to this opposition, in which, we denied the allegation that the Rock Island had no rights to handle export and import traffic.

On May 20, 1957 the Commission authorized the intervention of the Rock Island Railroad stating in its order [fol. 3402] the interpretation given by the Commission to the application of the Belt. I quote its interpretation: "It further appearing, That applicant on May 8, 1957, filed its reply to the petition (for intervention) alleging that it does not seek to encroach upon any legal operations performed, or to be performed, by petitioners; that it seeks authority to handle export and import traffic which interveners may not lawfully handle; and that petitioners have no legal interest sufficient to justify their intervention;"

On May 23, 1957 the Michigan Central, the New York Central and the Indiana Harbor Belt, in F.D. 19448, being their 1(18) application, and the Illinois Central, The Pennsylvania and South Shore filed an application with the Commission asking the Commission to reconsider its orders previously entered permitting the Rock Island to intervene in these cases and requested the Commission after reconsideration to vacate its order permitting such intervention. In this application these railroad companies recited the prior orders of the Commission permitting the intervention of the Rock Island and the action of the Rock Island in seeking to intervene in the Belt case.

As ground for the application of these railroads for reconsideration and vacation of its prior orders permitting the intervention of the Rock Island, these railroads stated that they were making these requests "in the light [fol. 3403] of the reasons stated in the Belt Railway Company of Chicago opposition and brief."

Because this application is not in the record, I quote it in full:

"Before the

Interstate Commerce Commission

Finance Docket No. 19448

Application of the Michigan Central Railroad Company, the New York Central Railroad Company and the Indiana Harbor Belt Railroad Company for authority for construction by the first named company and for operation by the latter companies of a line of railroad from 126th Street, Chicago, to the Lake Calumet Harbor Port of Chicago, in Cook County, Illinois.

Finance Docket No. 19538

Application of the Illinois Central Railroad Company, the Kensington and Eastern Railroad Company, the Philadelphia, Baltimore and Washington Railroad Company,

and the Pennsylvania Railroad Company for authority to construct and operate connection tracks from a point near Doty Avenue, Chicago, to the Lake Calumet Harbor Port of Chicago, in Cook County, Illinois, and for authority of the first and last named company and the Chicago, South Shore and South Bend Railroad to acquire trackage rights over the proposed and certain existing tracks.

Now come the applicants in the above entitled proceed-
[fol. 3404] ing and say:

I

The Commission by its orders dated September 25, 1956 and January 16, 1957, permitted the Chicago, Rock Island and Pacific Railroad Company, Pullman Railroad Company, and The New York, Chicago and St. Louis Railroad Company to intervene in Finance Docket No. 19448. Similar orders dated November 29, 1956 and January 17, 1957 permitted the intervention of these same parties in Finance Docket No. 19538.

II

Intervention was also sought by these same railroads in Finance Docket No. 19742 in which the Belt Railway Company of Chicago is an applicant. The Belt Railway Company of Chicago, under date of May 7, 1957 filed its opposition and brief in support thereof to this proposed intervention.

III

Applicants in Finance Docket Nos. 19448 and 19538 now request the Commission to reconsider its orders permitting the Chicago, Rock Island and Pacific Railroad Company, Pullman Railroad Company and The New York, Chicago and St. Louis Railroad Company to intervene in these proceedings in the light of the reasons stated in the Belt Railway Company of Chicago opposition and brief dated May 7, 1957 and May 10, 1957."

Might I say, interposing again, that the May 10 papers [fol. 3405] which were filed by the Belt related to the Nickel Plate side of the case.

"After such reconsideration, the Commission is requested to vacate its order permitting such intervention.

Respectfully submitted,

Robert H. Bierma, Erle J. Zoll, John C. Lawyer, William J. O'Brien, Richard O. Olson, Counsel

May 23, 1957."

Thus, these railroads adopted as their own the statements contained in the Belt opposition, namely, that they were asking for rights to place them in a position to lawfully handle export and import traffic, the movement of which through the Lake Calumet Harbor Port area is anticipated in the future; that they do not seek to encroach upon any traffic now originating or terminating at industries served by the Rock Island or Pullman Railroad Company; and that they do not seek to encroach upon any export or import business now being handled lawfully by the Rock Island or Pullman.

The Rock Island opposed this application, setting forth the same reasons which it had urged against the opposition of the Belt to Rock Island intervention in its case, as well as an objection because of its late filing. Because the application of the Pennsylvania, the Illinois Central [fol. 3406] and South Shore was not filed until long after the intervention of the Rock Island had been granted, the Commission refused to accept these applicants' application.

It was not until September, 1957 that the New York Central, Michigan Central and Indiana Harbor Belt filed their application for approval of trackage rights—Finance Docket No. 19921—and so far as these three railroads are concerned, there is pending for hearing here both the 1(18) application and the 5(2) application of these carriers. The

Rock Island filed a petition to intervene in the second proceeding instituted by these three railroads and our petition to intervene has been granted.

At the time that we filed our petition to intervene in this last case, the New York Central, the Michigan Central and Indiana Harbor Belt did not file an opposition to our intervention, but in this application under Section 5(2) the applicants referred, as we have set forth above, to their original 1(18) application as containing the supporting reasons why the 5(2) application should be granted, and, therefore, the purpose of these applicants in reaching Lake Calumet must be the same with respect to both applications.

I refer again to the language used by Mr. Olson and which I will not attempt again to quote, but stating in substance that the purposes of the two were the same except for the method of reaching the port.

[fol. 3407] Other industries and other facilities will be located on the westerly and northwesterly side of Lake Calumet north of the present grain elevators which will handle foreign commerce and interstate and intrastate commerce; these industries will be located in exclusive Rock Island territory and service to these industries by the applicants would constitute their service in Rock Island territory.

We would like to summarize the position of all applicants:

1. In general, these applicants, and in particular, the Pennsylvania Railroad, do not seek authority to serve, and will not serve, any industries or facilities now or hereafter located on land formerly owned by Calumet Harbor and now owned by The Pennsylvania Railroad or its subsidiaries, since all applications seek only to reach and serve properties included in the Chicago Regional Port District.

2. No applicant desires to handle anything but export and import business passing through the Chicago Regional Port District. The applicants do not ask authority to

handle, and will not handle, interstate or intrastate commerce to or from any Rock Island territory in the southerly, westerly or northwesterly parts of the Port District or adjacent Rock Island territory.

Mr. Olson: Are you finished?

Mr. Dwinell: Yes, sir.

Mr. Olson: I hate to have the time of the Commission [fol. 3408] dissipated any further than it has been, but I would like to say applicants Illinois Central will stand on their application and return to questionnaire, and I don't believe the Commission will entertain any strange construction that is being put on these intervening petitions. I think it is perfectly clear as to what our application and return to questionnaire contains. We in no way limit ourselves to export-import statement.

Exam. Albus: Anything further?

Mr. Bierma: Specific mention has been made of Pennsylvania Railroad. We plan to serve over the proposed trackage any industries that are located on in a track going in there and out, and there is no qualification whatsoever in the return to questionnaire. I don't know whether Mr. Dwinell is asking for clarification more than what we have stated in our return to questionnaire, but I can recall in drafting the answer to question number 5, we tried to make it as broad as we possibly could and add all the nouns in that would cover every conceivable situation in this Calumet Port area. Specifically in our estimates of traffic we have broken down the traffic to grain and traffic other than grain. There is no limitation whatsoever to import or export traffic. In fact we have mean lengths of hauls and the type of hauls we are going to have in and out, so I don't know how by any construction you could say that the applicants in 19538 have limited themselves.

[fol. 3409] Exam. Albus: Any further statements to be made?

Mr. Osmond: On behalf of Belt in 19742 I would like to say that we don't consider our application is subject to the construction which Mr. Dwinell has indicated. It is true we have challenged the present operations conducted by the Rock Island in so far as export and import traffic is concerned, and in making statements we did not intend to participate in traffic lawfully handled by the Rock Island. We, of course, had in mind that they were not at the present time lawfully handling export and import traffic through the port.

Mr. Broker: Could I ask a question? You are not challenging the Rock Island's right to handle traffic other than export and import, is that right?

Mr. Osmond: With the present industries on their own line, that is correct. Of course we think that—

Mr. Olson: On behalf of the New York Central, the Indiana Harbor, and Michigan Central applicants, our position is the same as the Illinois Central and Pennsylvania. We do not seek to limit in any way what we have stated in our application.

Exam. Albus: Very well.

Mr. Dwinell: I would like to reply to those statements. Apparently I have no right to rely then on the statements [fol. 3410] made by the applicants in pleadings filed before the Commission. Their pleading which was filed before the Commission was a complete denial of the right of the Rock Island to intervene in this case. Admittedly we are serving intra and interstate traffic through that Port District. These applicants said the Rock Island has no right in this case, because we are not going to handle that traffic. Now, let's just assume for a minute that the Interstate Commerce Commission had granted the opposition of these applicants to our intervention, and let's assume that this hearing would have been held here today with the Rock Island excluded upon the basis of the statements made by these applicants to the Commission. Do they have the effrontery to say to you that having kicked us out because of not handling interstate or intrastate business, they

would come in now in our absence and ask for authority to do it? They overlooked completely the fact that they filed a solemn document stating what their application was for, and if they had prevailed, the Rock Island would not be here today.

Exam. Albus: I have heard enough argument about this thing. Let us get along with the hearing. Call the first witness.

Mr. Dwinell: Do I understand then it will be understood that we object to all evidence introduced contrary to the position which I have assumed here and that that will be [fol. 3411] a continuing objection?

Exam. Albus: Very well. The objection is overruled.

• • • • • • •

MAXIM M. COHEN was sworn and testified as follows:

[fol. 3412] Direct examination.

By Mr. Arnold:

• • • • • • •

A. I would like to read to you, and I do this at the request of the Port District, three paragraphs of our petition of intervention.

• • • • • • •

"The Chicago Regional Port District hereinafter termed the 'Port District') is a 'political subdivision, body politic and municipal corporation' created by an Act of the 1951 [fol. 3413] General Assembly of the State of Illinois approved June 6, 1951, and supplemented by amendments passed by the 1953-1955-1957 General Assembly in which additional authority was granted to the Port District. The duties of the Port District, generally stated, are to study existing harbor plans within the area of the Port District and recommend changes and improvements therein to meet changing business and commercial needs; to investigate and prepare plans for the development of the port facilities; to study and make recommendations for the improve-

ment of terminal and other facilities for the promotion of commerce; to acquire, own, construct, lease, and maintain port and harbor, water and land terminal facilities; and to perform other acts to improve the port facilities in the handling of commerce in and through the Port District as more specifically set forth in the statutes of the State of Illinois.

"In furtherance of these powers the Port District initiated and sold 24 million dollars in revenue bonds, the proceeds therefrom having been used to construct its first state development, consisting of dredging Lake Calumet, construction of docks, grain elevators, port office, warehouse, transit sheds, and the installation of 14 miles of railroad track, all of which facilities have been completed.

"The railroad trackage is all on land built by the Port District and which trackage is the basis upon which a con- [fol. 3414] tinuous Harbor Belt Line will ultimately be constructed and operated. (copies of the final progress report dated September 1, 1957 from DeLeuw Cather & Company, consulting engineers to the Chicago Regional Fourth District, and plan marked G100, known as the Harbor and Trackage Plan, are attached hereto as Exhibits 1 and 2 respectively.

"Position of the Port District. The Port District services the present and future area to which applicants seek to extend their lines and seeks to intervene herein in accordance with its duty under the Chicago Regional Port District Act to petition, among others, any federal authority for the adoption and execution of any physical improvement, change in method, system of handling freight, warehousing, docking, lightering, and transfer of freight which in the opinion of the Port District may be designed to improve or better the handling of commerce in and through the Port District or improve terminal or transportation facilities therein, 19 III Illinois Revenue Statute 1955.

"In pursuance of its duty, the Port District Board at its regular meeting under date of January 15, 1954, adopted the following resolution:

"'Be It Resolved That the Chicago Regional Port District reaffirm and restate its railroad policy for Lake Calumet Harbor which policy unequivocably is that the public interest as well as the interests of prospective tenants and [fol. 3415] users of the Lake Calumet Harbor will be best served by making available to them all accessible railroad service on equal basis, and under no circumstances that a monopoly or exclusive privilege shall be granted to any single railroad carriers to serve the Lake Calumet Harbor.

"Furthermore, that it shall be the declared policy of the Chicago Regional Port District to foster and attract railroad carriers which have a primary interest in the development of the Lake Calumet Harbor as a rail-truck-barge-ship interchange harbor.'

"The policy recited in this resolution as aforesaid was and is the present policy of the Chicago Regional Port District with reference to railroads.

"Wherefore, said petitioner prays leave to intervene and be treated as party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral argument if argument is granted."

I wonder if I may stand. I can talk a little bit better in this particular fashion, and unfortunately for me, today it looks like I am going to lose my voice.

Our board felt that it was important for you to know that the development of the Lake Calumet Harbor is not a new idea nor a promotion that has been bandied about as being something of the day. I think it is important for you to [fol. 3416] understand that the development of the Lake Calumet Harbor is something that has been thought about and planned for the last 37 years. Back in 1920 the original plan for the development of Lake Calumet Harbor was espoused and called the Van Vlissingen Plan. This was a plan laid out by engineers—and incidentally, in which the City of Chicago cooperated—that had for its basis the development of 2,250 acres of land and water. Nothing happened to that particular plan, Mr. Examiner, and in

1928 the State of Illinois, who originally granted the lake to the City of Chicago, took the quit claim deed back from the City of Chicago. In 1929, through an act of the legislature, another quit claim deed was issued by the State of Illinois to the City of Chicago, and from the period 1929 until the spring of 1955 this particular holding was held in the hands of the City of Chicago. Now, I think it is important to understand that all through that period nothing happened to this development. The Regional Port District, as you know, was placed into existence in 1951. It was the result of legislation which was fostered by a sound concept that something had to be done to develop port and harbor facilities in the City of Chicago. For the first two years of the port board's existence, namely from 1951 to 1953, it existed as a more or less study group. Its powers were very limited. It had no authority to borrow money, and it wasn't until 1953, until the Illinois legislature granted [fol. 3417] to the Port District the right to issue its own revenue bonds, that the Port District as such could go ahead and make some definite plans for a development. At that particular time the Port District was cognizant that many places existed to build harbor facilities on the Calumet River and on other places, but after careful analysis, it decided that this development of 2,250 acres was large enough and had the potentials to build over a long period of years. I came with the Port District in the fall of 1953. The Act was changed by the legislature and effective on July 1, 1953.

I think it is important also to tell you that I came with this board with a background of a life time of experience in this business. I started in the marine terminal and warehousing business in the late '20s, and all through my adult life I have been an exponent—and let me say, I have done my full share—for the development of interchange of business in and through Chicago. I was the manager of marine traffic of very, very large facilities, and my record speaks for itself in the promotion of this particular type of activity.

In the fall of 1953 this board became cognizant that it must do something on the right of its borrowing money, and commencing at that time it lay down some fundaments for port and harbor construction. Now, granted, what we did in the fall of 1953 was changed over the next two years, but the basic plan existed, and over a period of 18 months [fol. 3418] of careful and let's say cooperative action by the City of Chicago, we were finally able to secure from the City of Chicago a quit claim deed to this lake bed, without which we couldn't function.

With the procurement of that quit claim deed in the spring of 1955, the port board went right ahead with full speed and succeeded in a period of almost four months in putting together the foundation of what its bankers felt would be a practical plan for financing.

In 1955 the Port District again realized that the concept of the Port District Act had to be changed because it felt its best public interest would be served by having the law changed so that all of the facilities which we were empowered to create, as well as those which we would develop over a period of years, would, by law, be turned into private hands for lease and operation. To the best of our knowledge this is the only port authority or board of its type any place in the world that by law has the right to do this. I think it is important in the procedure for this particular case to understand that these facilities then, while they have been created by municipal action, are not operated by this municipal corporation, that each facility in itself is a separate entity in the hands of a private operator, which, of course, puts an entirely different complexion on this development.

In the period June 1955 until October 1, 1955 the port [fol. 3419] board existed without any funds and without any appropriations from the city, county, or state, and these good men, believing in the purpose of the Port District, stood fast until we were able to finance this venture, and I think it is a tribute to them and to everybody else connected, that they had enough patience and courage and wisdom to stay with this thing.

On October 1, 1955 we were able to procure the proceeds from the sale of this particular bond issue, and of course we are very, very proud to tell you, as you can see by the statement that you have here, that we were able to finish these facilities within the allotted time and within the amount of money that we had to spend.

Now, when we went into this first phase development, we were conscious that the eyes of the railroad world as well as the industrial world and people all over the United States would be focused on us because we believed then, as we do today, that this 2,000 acres, coupled together in one contiguous unit, presents in itself one of the greatest potentials for the generating of traffic that there is in the mid-continent area of the United States. When you work with something that is as broad and as big as this, I think you begin to understand that there are some obligations that go beyond you.

Now, you may say to yourself, "Why does it have this particular potential?" Briefly, and I think most of the men in this room understand, this particular body of land—and [fol. 3420] incidentally, I should say that it is nothing but mud, garbage, and a lot more mud, with the exception of the area that we have already dredged and developed—exists because it is the fusion point of deep water in Chicago, shallow water, and it presents in itself an unlimited opportunity for the development of rail and trucking facilities.

When we informed the public as such that we were ready to go ahead with our first stage development, we made it very plain that these facilities were designed for not only the handling of import and export business, but that they had to serve as an intermediary and as a method of handling, warehousing, or stopping in transit domestic freight as well, and believe me, I happen to be the responsible individual who sold these facilities by lease, and at no time did I ever say to a tenant or to anybody interested that these facilities were built and designed to handling anything but import and export freight. I made it very plain that these facilities were being constructed to handle a complete interchange of domestic business, intrastate, in-

terstate, as well as import and export freight, and I think it was because of the flexibility and the wide contact that these facilities would have that we were able to lease these facilities when we did.

These facilities in themselves are but a first stage in an over-all development. After they were conceived and put in action, we became conscious that we must develop an [fol. 3421] over-all plan that could be worked with over a period of time and be completely practical from an engineering as well as an economic standpoint, and for better than one year our engineers and our staff were involved in this particular development, and it wasn't until the cessation of the last legislature on July 1 that we presented to the State of Illinois a revised plan for this development, the plans for which are here, which was approved by the State of Illinois.

Now, this plan, I think, then, must be considered in the scope of this undertaking. This area has been spoken of as a commercial and industrial area. It is exactly that, because in this plan we sought to place on one side of the lake all of the facilities that we believed would be adaptable for commercial purposes, such as grain elevators, warehouses, cold storage places, trucking terminals, transit sheds, and any of the other developments that would come with a commercial setup.

Now, we laid it out in that particular fashion because we sought to again expose as much of the property as we could to water contact as well as rail contact.

Now, we felt then like we do today, that it is impractical to conceive of developments of this nature and size without having all of the rail and truck access because we believe that you can create no great area of this type without having a fusion of all of these facilities, and the harbor which [fol. 3422] we have laid out follows more or less a pattern that I saw in Europe, in Antwerp, Hamburg, Rotterdam, places like that, where over a long period of years these people sought to bring into certain areas all of these facilities.

Now, for its industrial setup we felt that the area offered undeniable advantages because raw material could come in by barge or vessel and here be fabricated and processed and shipped away by rail and truck.

The over-all development has been—incidentally, this is terrible, to think of a fellow that has stood before the television audience and what have you three or four hundred times and have to lose my voice today. This is really something.

In any event, the development itself then offers a composite setup. Now I have spoken for a long time of the complete integration of facilities in this layout. I have also mentioned that the area which is east of Lake Calumet and which is now the subject of some controversy in connection with zoning, should in some form or another be added to the harbor complexion, not particularly under our ownership or management, but that the property development as such should be fused in with the lake so that instead of 2,000 acres, such as we have now, taking out all the roadways and what have you, that there would be available almost 3,000 or a little bit better than 3,000 acres of land which could be integrated into a comprehensive [fol. 3423] layout, and all of the exposures of the slips on the east side, which you will see here, have been laid out in that particular fashion so that by pipeline, conveyer, or in any other method, the movement of raw materials might go from those areas in and out of the harbor.

I think this spells out in a very, very broad way our particular concept of this harbor.

We have laid out on the west side an area—

Q. Could I interrupt you there a minute?

A. Yes.

Q. I wonder if you want to have presented here for the record this as an exhibit. I think it spells out exactly what you are talking about and speaking to, and I think the Commission should have it.

A. I think it should.

Exam. Albus: That may be marked for identification H-1.

(Exhibit No. H-1, Witness Cohen, was marked for identification.)

Exam. Albus: We are going to take a ten-minute recess, gentlemen.

(Recess.)

Exam. Albus: The hearing will please come to order.

We will continue with the direct testimony of Mr. Cohen: proceed, Mr. Cohen.

The Witness: I want to make a correction. The State of [fol. 3424] Illinois granted by legislative act the bed of Lake Calumet to the City of Chicago. I stated before that they got it by virtue of a quit claim deed.

I would like also to state that when we took the quit claim deed from the City of Chicago that we paid the City of Chicago $250,000 for it.

The over-all development of commercial facilities in Lake Calumet, such as you see portrayed to you in this plan that was developed by our chief engineer, contemplates better than 40,000 lineal feet of berthage on the west side of the lake and what we call the upper head of the turning basin.

Perhaps I had better go over there.

These particular slips have all been laid out to a certain standard of 400 feet in width; some were 3,000 feet in depth; others are 2,000 feet in depth. The projection of transit sheds, elevators, are simply shown in here as a possibility. In a later plan we evolved many changes, and we do have the right, as we go up, in making whatever changes we feel are practical and feasible. For the purpose of this statement then we do have this area that has been set aside for commercial facilities, permitting us better than 40,000 lineal feet and the construction of three million square feet of what we call transit houses; that is, mixed transit houses and warehouses.

Mr. Wright: Mr. Cohen, "this area" refers to the left [fol. 3425] side of the map?

The Witness: Yes.

Mr. Wright: Has that been offered for identification?

Mr. Arnold: We are doing it right now as Exhibit H-2.

Exam. Albus: The picture of the terminal is marked for identification H-2.

(Exhibit No. H-2, Witness Cohen, was marked for identification.)

The Witness: The layouts are to a certain standard, but up here you will see that we have spread the thing apart simply to show—

Mr. Wright: Pardon me. When he says "up here" or "here," it doesn't appear on the record at all.

Mr. Arnold: Will you say "the northern part" or something like that?

Mr. Wright: Describe the point you are pointing at because the record won't show it otherwise.

The Witness: All right. On the west side of Lake Calumet, contiguous to the Calumet Expressway, is the area that has been set aside for commercial purposes, and I call your attention particularly to one potential slip, the head slip on this side, better known as slip number 11.

By Mr. Arnold:

Q. That is on the west side.

A. On the west side. It shows a development which is a little bit different than down here because it has been [fol. 3426] set out as a potential for warehousing.

Now, this harbor plan must not be confused with harbor plans in New York, New Orleans, and places like that, because it has been laid out with the deliberate purpose of having in the area all of the units that we feel are necessary for the handling of traffic. Therefore, down here, in phase number 1, at the lower end of the anchorage basin, where I have my finger pointed, is the development of the first 200,000 square foot back-up warehouse. This warehouse was designed to handle all types of business, dry land as well as water business, and it is one of several

such facilities that will be developed as we go along in time on this particular side. The idea, of course, is to create facilities which can take the long-term storage business and accommodate themselves to the year around business because while it is true these facilities, by the very nature of the season through the seaways, limit themselves to more or less eight months, nevertheless they have been designed so they can be used by tenants for the whole year around.

You will also see on this plan a potential third elevator. I think it is important for you to know that when we developed the first plans for the first stage that we seriously tried to sell three elevators. Our bankers' plans, our engineers' plans, were all on the concept of three elevators because we felt we needed 20 million bushels of elevator [fol. 3427] capacity to fit in with the first stage development. Unfortunately we weren't able to do it; we weren't able to sell the third elevator, and therefore the deal wasn't consummated, but it is a potential, and it is set up here for the next slip.

Now, we have before us now a plan that calls for an execution of stage number 2. Stage number 2 we have talked about for over a year, but we weren't able to do anything with it until our laws were changed at the last legislature. We now have a change in our legislature which permits us to make a more rapid development of commercial facilities, and we are going ahead at this particular moment and will have before the Corps of Engineers an application for dredging for this complete anchorage basin, which, incidentally, is 1,000 feet in width, and we will have before the Corps an application to dredge from this point here—

Q. What is the point?

A. The point is at the north end of the elevator slip that we have already built. It is starting at the northern extremity of slip number 1, which has already been constructed. Right here, sir, and going northward 3500 feet. We have this application before the Corps then to dredge an area 1,000 feet in width by 3500 feet. We have also in-

cluded in this particular application the right to dredge this particular slip which will be 3,000 feet by 400.

Q. What slip is that?

[fol. 3428] A. That is slip number 3.

Mr. Chartrand: I wonder if you would kindly give us numbers for the various slips.

The Witness: All right. The application is before the Corps to dredge slip number 3, which is 3,000 feet by 400, and also slip number 2, on the east side, which is approximately 1650 feet by 400.

In our stage number 2 we have visualized the promotion, and we are actively engaged, into two enterprises on the east side, which will involve a make-up of 250 acres of land which will come out of the dredging residue of the anchorage slip, and on that 250 acres of land we intend to have constructed facilities for the storage and handling of all types of commercial oils and liquids as well as a huge bulk dock. We are not all set yet as to whether the bulk dock will be here or here, but in any event, 250 acres will take this development all the way up to slip number 4, which is this slip here, on the east side, so that you can see we do have a very, very active plan ahead of us for these facilities. These facilities are needed because we feel a transportation facility of this type must have this integration of the liquids as well as the bulk in order to be able to fuse.

We also have before us the potentialities of another large back-up warehouse as an accessory to the harbor which will be on the south side and running directly east [fol. 3429] of the present back-up warehouse that is shown on your plan. This particular house will be as large as the other one, either 2 to 250,000 square feet in space.

We have below that a very, very active promotion for some additional commercial facilities that we are not in position to talk about at the moment.

So our definite plans then are these: to dredge this particular slip—that the basin—up to this point, making 250 acres and along with it cut out this slip of 3,000 feet by 400.

By Mr. Arnold:

Q. That is number 3?

A. That is number 3. This slip that is 3,000 by 400 will permit us then to construct either one huge elevator and 5 additional transit sheds, or if we are not able to promote the deal on the elevator, then to build 6 additional transit sheds, exposing 6,000 feet of additional wharfage here for slips, barges, or for any particular purpose that we see fit.

Now, if our plans move along, such as we hope they will, we are of the belief that this, as well as this and this, will all be under way within the next 12 to 18 months, either constructed or well along to construction.

I have been asked a question—I mention this to you so you can see that nothing in this particular plan is static; everything is moving along and moving along very, very [fol. 3430] rapidly. I have been asked on more than one occasion publicly and I have said that I hope and I believe that if our plans move along such as we think they will, that within ten years we will have this complete western side developed.

Now, it is entirely possible that we may have the eastern side along with it, but our concentration naturally is on commercial facilities with the exception of these two areas that have been marked down here for that type of an operation.

Q. That tank farm is in the lower east side portion of the lake, is that correct?

A. Yes, yes. We have those two areas which you will see delineated on the map you have there, and they are a little bit different. When we figured this out originally, we had this slip here, but we moved it down because in any development of this lake we have to keep before us the fact that we must have at all times 500 acres of water as between the anchorage basin and the slips, so our evolvement of slips must be in accordance with that particular setup.

Mr. Wright: In order that these men can identify each slip, will you take from the top and number each slip so it can be numbered on the photographs?

Mr. Burchmore: Is that not done on the exhibit?

Mr. Arnold: It is already shown, Mr. Examiner.

Mr. Burchmore: Yes.

Exam. Albus: They are numbered on the map H-1 for [fol. 3431] identification.

The Witness: It won't take but a moment. This is slip number 1, the slip we have already dredged.

By Mr. Arnold:

Q. On the lower part of the lake?

Mr. Bierma: That is where the grain elevators are located?

The Witness: Yes, sir. Slip number 3 is the next slip we intend to dredge, immediately north.

This is slip number 5, next to 3. This is slip number 7.

By Mr. Arnold:

Q. Progressively going up—

A. That is right. This is slip number 9, slip number 11.

Q. —if you start with number 1 on the exhibit.

A. This is slip number 13. The layout, of course, comes out of a hard core, and as I told you, the only harbor I know of any place in the world that has any semblance to this is the harbor of Hamburg where these particular slips have been laid out on the Elba River, so this is the complete setup that is here.

Mr. O'Brien: Mr. Examiner, may we for the purpose of clarification state that what reference the witness made to the photograph also applied to H-1, for clarification?

Mr. Arnold: They are companions to one another.

Mr. Burchmore: May we have the record state of what Exhibit H-2 is a photograph?

Mr. Arnold: Photograph of a model.

[fol. 3432] Exam. Albus: Photograph of this thing here that is on the board.

Mr. Arnold: It is a model of how the port is going to look when it is complete. The model was prepared by our chief engineer.

Mr. Burchmore: It is really a plan converted into a model of plaster and so forth.

The Witness: That's right.

Mr. Burchmore: Could he not state at this point how much of Exhibit H-1 and Exhibit H-2 is really there, that could be photographs as an actuality?

Mr. Arnold: He has already stated that.

Mr. Burchmore: He hasn't plainly.

The Witness: I can repeat that.

Exam. Albus: If you will, please.

Mr. Burchmore: Give the numbers or something.

The Witness: I will be happy to. I will be happy to do it. This entire entrance basin, leading out of turning basin 5, all the way across the anchorage basin to what we call the northern extremity of slip number 1 is already dredged to deep water specifications.

We have constructed in slip number 1 two 8½ million bushel grain elevators which are functioning as of July 1. We have constructed adjacent to the southern extremity of the anchorage basin three transit houses that have [fol. 3433] 300,000 square feet of space in them. We have constructed this first back-up warehouse, which has 200,000 square feet in it. We have also built 14 miles of railroad, and naturally, we had to make the most of the land which is here, which we did from the dredging residue. This is what cost us $24,000,000.

By Mr. Arnold:

Q. This so-called back-up warehouse is not on the water. It is back from the water.

A. No, sir.

Q. How many feet back is it?

A. Approximately 500 feet back from the water.

Mr. Arnold: Does that explain it to you, gentlemen?

Mr. Burchmore: It doesn't quite.

Aren't there large warehouses right along the lower part of Exhibit H-1 and H-2 from which vessels transfer freight directly to the warehouses today?

The Witness: Yes.

Mr. Burchmore: They are rather auspicious structures, are they not?

The Witness: These transit houses which have been constructed here are being used today for the interchange of barge and ship business to and from car and truck as well as for temporary warehousing purposes, yes, sir.

Mr. Burchmore: They are *not* 500 feet from the water, are they?

The Witness: No, sir. These transit houses are only 50 [fol. 3434] feet from the water. The back-up warehouse Mr. Arnold spoke of, supporting warehouse, is back of the concourse, approximately 500.

Mr. Burchmore: You have tracks on both sides of those buildings, do you not?

The Witness: Yes, sir.

Mr. Chartrand: Do those sheds adjacent to the water have a number?

The Witness: Yes, they do.

Mr. Chartrand: Would you please point out to us the number assigned?

Mr. Arnold: And who they are leased to.

The Witness: This is shed number 1, leased to the North Pier Terminal Company. This is shed number 2, which is leased to Packers Terminal & Warehousing Company, and this is shed number 3 which has been leased to Calumet Harbor Terminals.

By Mr. Arnold:

Q. Let me ask you there, shed number 3 comes right out from the Calumet River or going out that way?

A. No, sir.

Q. They progressively go up the other way?

A. No, sir. Shed number 3 is flush with the other sheds, as you can see. The dock has been slanted a little bit to get into the entrance space.

Q. You didn't understand my question. With respect [fol. 3435] to the location of 1, 2, and 3, where are they with respect to that map? Number 3 is the first one you enter as you come in from Calumet River.

A. That's right. Number 3 is the first one you enter when you come out of turning basin number 5. Number 2 is the second one, number 3 is this one here.

Q. Number 1?

A. That's right. This back-up warehouse has been leased to North Pier Terminal and Calumet Harbor Terminals. This is elevator number 1, leased to the Illinois Grain Company.

Q. Which slip is that?

Mr. Wright: The smaller of the two shown.

By Mr. Arnold:

Q. They are both alike.

A. They are both alike. We are now fusing with an addition to elevator number 2, but those are alike, both 6½ million bushels.

Q. What are the slip numbers?

A. This is slip number 1, and this one has been leased to the Rice Powell organization.

Mr. Burchmore: Could he say what this red space is on Exhibit H-1?

The Witness: Yes, I can explain that to you.

In the development of this plan we felt that we ought to show the potentialities of industrial property, so we lined up on the map this area in red to show these back-up [fol. 3436] lands which were susceptible to industrial, let's say, promotion.

By Mr. Arnold:

Q. That is slip number 4?

A. That's right.

Q. Four, 6, and 8, and north thereof.

A. That's right.

Q. On Exhibit H-1.

A. The lower two areas that you see in white we are reserving for public terminal facilities.

Q. That is below slip number 4?

A. That's right.

Q. And slip number 2?

A. That's right.

The green is commercial. In other words, that has been set out for commercial purposes, trucking facilities, other warehouses, or anything that we might want to construct into it that is compatible with the over-all purposes.

Q. They will be public houses, won't they?

A. They will be public houses, yes. I should like to explain, Mr. Examiner, that the two elevators which are constructed here and under lease are public grain elevators. The warehouse that has been leased to the North Pier and Calumet Harbor are public warehouses, and that the three transit sheds serve as public facilities. In other words, everything that we have created at the moment are public facilities and so licensed.

[fol. 3437] Q. In other words, for import, export, and domestic traffic, is that right?

A. All types of traffic, Mr. Arnold, yes; all types of traffic.

In the development of our first phase we have made certain traffic projections that we would like to put into the record. We have two grain elevators with a capacity of 13,000,000 bushels, and in the original projection of our bond issue we showed a turnover of four times its volume as capacity. We checked this out with other elevators, and we felt that four times was reasonable for the period 1957—that is, 1957-1958. Therefore, we estimated a turn-

over capacity of these two elevators as 52,000,000 bushels, and we did at that time and we do today state that of this over-all four times capacity—that is, our estimate is that 60 per cent of that capacity is rail tonnage. We have estimated that the other 40 per cent is tonnage which will move in and out by barge and truck. We have translated that particular tonnage into cars and came up with the estimate of 15,000 railroad cars as the potential of these two elevators for the period up to and including 1958. Now, back in our transit sheds our bond brochure will show that we estimated a turnover of 2 tons to every square foot that we had in the buildings. That is 300,000 square feet. Now, when we made this original estimate, I was cognizant, and all of us were, that this is different [fol. 3438] than the usual basis which is used on the east coast and the Gulf, where they calculate one to maybe one and a half tons per square foot for turnover. I felt then like I do today, that with the eight-month operating season, such as we will have with the seaway, that whatever frontage we have must be turned over much quicker than what is there, and I have espoused, and I believe our tenants recognize, that these facilities must be used at least 16 to 24 hours a day when and as the seaway starts because of the short season, the necessity for the quick turnover is there, which is altogether different than what you have on the east coast. I recognize, of course, that there is a great variance of opinion in connection with what these sheds can do and will do. However, I have expressed our particular attitude in connection with it. For the purpose of this record, we have calculated that our tonnage through these sheds would be less than even one ton a square foot for its first two years of operation, and we took an over-all tonnage of 250,000 tons, and again we came down to the basis of 60 per cent as rail business, leaving the other 40 per cent for trucks and barges, and we came down to a figure of 6,000 cars out of these transit sheds.

Now, back in our first warehouse, recognizing that this is a new warehouse and that any large distribution center

must take time before you have a complete fusion of traffic [fol. 3439] and turnover, we calculated a minimum turnover averaged out as 500 cars a month from this particular facility or 6,000 cars and came up with the estimate that in the first two years of operation these facilities should generate approximately 27,000 railroad cars. We then projected a development commencing with 1959, which, incidentally, is the first year of the seaway's opening, and took the years 1959, 1960, 1961, and 1962, because we felt in that period we would have, let's say, more of a turnover of freight and a greater utilization of these facilities, and we calculated that our two grain elevators, instead of having a 4 times turnover, should have an 8 times turnover, bearing in mind that these would be public elevators available for the handling of grain which would move in export out of Chicago, and of course again I want to reiterate what I have stated to the Board of Trade and others for the last four years, that I felt with the potential of the seaway that Chicago had to become the greatest grain exporting city on the North American continent, that with rail proportional rates geographically, our position was such that we had to have this, and more so because I felt that with the ships which will come in through the seaway that they offered themselves as ideal, clean ships for the loading of what I term bottoming cargo as well as cramped cargo. Of course I am also aware you have elevators on Gulf that are turning over 15 and 18 times. I took a nom- [fol. 3440] inal turnover of 8 times bearing in mind that this particular turnover is not entirely exclusive for export business because these public elevators, as you know, must handle grain going for processing out, going into the east and south and places like that. Our elevators are truly transit elevators. They have, of course, one tremendous advantage, and that is the ability to be able to handle very, very rapidly grain for export, so in that particular case they are a little bit different from the elevators at Houston, Galveston, Mobile, and Baltimore, completely confined to export business. Ours are truly intermediate houses that

can take advantage of this. I have calculated we should have a turnover of a hundred million bushels of grain of which 60 per cent should still stay with rails or a turnover of 31,000 cars. I went back to the first development of our transit sheds, and instead of taking the total of 600,000 tons I have cut that to 400,000 tons, feeling that we will do that kind of tonnage, and incidentally, this is a fraction of the tonnage that I predicted we would have when the seaway commenced, and we catalogued that as having a potential of 9500 cars.

Now I went back again to the back-up warehouse, and having come out of the warehousing business originally, this house is an ideal transit setup, I figured that that particular tonnage could increase by a nominal amount to [fol. 3441] 8,000 cars, and I set down the totaling of 48,500 cars as potential from the facilities that we have constructed as at this date. Now, bearing in mind that by 1959 or 1960 we intend to have this next slip dug out, that will give us a potential of 6,000 feet of berthage, I have taken a minimum development of that particular slip as only three transit sheds on one side, backed up by 3,000 feet of wharfage, and here again, of course, we will build three transit sheds with 100,000 feet in them so they will correspond with the first setup, and there I have assigned a tonnage of only 400,000 tons, 60 per cent of which would be rail or 9500 cars.

Now, I want to make this particular explanation: That I have frequently stated publicly and in written articles that I felt the potential of Chicago for the first five years of the seaway—which would be approximately 1962—should be a million and a quarter to a million and a half tons of general cargo. I do not want to get away from this particular figure; I simply call it to your attention so you could see the fusion of the facilities that we have now in connection with the new sheds that we will construct will have what I calculate a capacity of 800,000 tons, which is much less than the over-all tonnage that I feel will be susceptible for Chicago. In addition to that, I think it is

important to bear in mind and to repeat that we had originally intended a third elevator so that we would have [fol. 3442] a capacity of 20,000,000 bushels. Now, when you construct a new elevator, naturally that particular elevator is going to take some time until it becomes working, but I do want to state that any new elevator constructed in Lake Calumet must, by its very nature, be larger than the one that we have now, because we know that we could have built ten million bushel elevators as easily as 6½ because the fixed cost for the docks, the railroad tracks, the headhouse and all the other accounterments that go into facilities of this type could have been better spread out on an economic basis for larger elevators, so we feel the next elevator constructed on that particular slip should be at least 8½ to 10,000,000 bushels with a potential of 10,000 cars. If you add those to what we have there, we feel then that we have a potential of 68,000 railroad cars on the west side which is exclusive of the east side development. On the east side we have projected what I think will be the largest commercial tank farm, at least to the best of our knowledge, in midcontinental America. This particular farm will take 7 to 10 years to construct to its maximum size. The first three or four years of its construction will have what we term basic facilities, and I figure very, very normal turnover of only 600,000 barrels which is translated into 2500 cars. This facility, incidentally, should be finished by 1959 or 1960 so its total comes into this. The other bulk facility that we have on paper is a facility [fol. 3443] similar to the one that I operated at the East Chicago Dock Terminal for so many years and that I feel it, too, will have a potential of at least 250,000 tons of rail business taking into account some of the tonnage we are talking on now or 6,000 cars, so that we have added together then the potentials of the new facilities on the western side as well as the eastern side and come up with what we feel will be moving in and out of Lake Calumet, namely 77,500 cars, by 1962.

Now, when you go into the realm of developments from 1962 to 1968, which takes us another five years, I have always felt that this particular development which in our language will be phase number 3, will move with greater rapidity and with a far greater, let's say, essence of flexibility. In other words, we will have far more tonnage in it, and I have calculated that in phase number 3, in addition to slip number 3, that we would go for slip number 5 and slip number 7. These two slips then will make potentially approximately 12,000 feet of lineage with 12 sheds. To the very, very best of my knowledge, I have calculated that those particular sheds along with the other facilities should give us at least a 50 per cent boost in tonnage; in other words, on top of the 77,000 cars. So that this is what I have projected for our first ten years of operation. Now it is entirely possible that in ten years we will have gone [fol. 3444] all the way up the west side of the lake. I say it is entirely possible. With the rapidity with which this thing is moving and its potential, this becomes more than just simply saying a possibility. I think the only thing that can restrain its ultimate construction is our ability to borrow money. Because if we could borrow more money today, I am positive we could have gone along with the other slip in much faster order. However, regardless of whether we can borrow money through revenue bonds or not, with the development of our particular act, we feel that we have enough flexibility so we can move on another basis.

I think this gives you, Mr. Examiner, let's say, a general, over-all estimate of what our plans are in connection with so-called commercial facilities. Now I would like to go back to something else which is very, very dear and close to my heart, and that is, namely, the development of industrial facilities. We have always espoused that it would be a tragic error in economics if a complete industrial development didn't work alongside a commercial development. We have always felt that when you bring shallow water, deep water, rail, and truck together such as you will here right in the center of what we term metropolitan Chicago, that

you offer an industrial potential that no city on the globe can match.

Here you are in the center of one of the heaviest industrial areas in the world, with all the steel business, chemi- [fol. 3445] cals, and what have you here, and we have always visualized that with the potentialities of deep water, that we would bring into this area that type of basic industry—and by "basic industry," I mean the industry which can take the raw material and fuse it into what we call a secondary commodity that can move out of here by rail and truck as the case might be. We feel that with these potentials that the industrial setup is absolutely unexcelled, and especially if we in some way or another merge this activity with the acreage that will be east of Stony Island Avenue extended. And at all times, such as we do today, we absolutely believe firmly that this industrial potential is every bit as great as the commercial setup, that when you take the type of basis industry that we have in mind that will come here, that will convert these raw materials, that in themselves they have the potentials of creating every bit as much rail traffic as what we think is susceptible on the west side, so that I have made the expression in more than one case, and I think I ought to make it today, that when and as this whole area is developed, which is, as I say, completely possible in the next 10 or 12 years, that there is a potential here of at least 250,000 or maybe 300,000 rail cars, taking into account this industrial activity. We happen to be working today on a conversion of a raw material that two years ago I would have dreamed was completely impossible, and this, incidentally, is not [fol. 3446] an idea that originated with me. It originated with the vice president in charge of that particular product with one of the largest corporations in America that wanted to bring their raw material in here and process it, and out here naturally it will go by rail to the entire mid-continent area as well as Michigan, Wisconsin, Ohio, and places of that particular nature, so these, I think, spell out in a very, very broad and general way the potentialities of this particular property.

I think I should tell you that the entire development will go forward without any tax money, without any subsidies, because our bonds are not guaranteed by the city, county, or state, and that our development, as I say, will go forward either by revenue bonds or by leasehold arrangements that we will perfect as the time goes along.

By Mr. Arnold:

Q. Mr. Cohen, why do you feel that you need additional railroads in the Port of Chicago, Calumet Harbor?

A. In 1953, when I returned to Chicago after a stay of several years in Europe where I was involved in this business, I made a statement to the board at that time, and I went back to my notes—at that time I was the general manager, office boy, secretary, chief clerk, and what have you—because at that time I kept all these notes myself, and in 1953 I came across my notes here when I talked to our directors about railroad policy, and I felt then, because [fol. 3447] of the lifetime of activity here and knowing a little bit about the background of most of these particular railroads, that considerable, let's say, interest would be developed in connection with this, and at that time I made five statements generally to our directors. I made the statement to them first that I felt this particular area should be served by more than one line, and at that time, incidentally, I directed my attention to the possible service by either one or two belt lines, because I felt the possibilities of one, two, and three line switches for warehousing and the handling of business would be very, very important and, if it could be developed, would place this port in a position where more of these hauls could be made, and in the metropolitan Chicago area, where switching charges are so high, I felt this was necessary, especially if we were going to go into warehouses and facilities of that type that would handle dry business. I also at that time called our directors' attention to the fact that if we had these tonnage potentials and such as you see are being developed even with the meager setup that we have at the

moment—and I can assure you it is a very, very small thing compared to what we will ultimately have—that there will always be present a car supply, and having had some experience with a facility where four railroads served it, I felt if more railroads were there there would be a more fluid car supply available to the tenants and things of [fol. 3448] that nature.

I also brought up at that time to our directors the possibilities that if one railroad served the harbor, that is, the whole area, that we would be subjected to any individual strikes that were on railroads. I also mentioned to our directors at that time—and this of course is not new because the Lord only knows I have talked about it for the last twenty years, and that was that with more railroads serving this particular facility that we might have a more ready acceptance of import and export rates. In other words, if you have but a limited service you have that particular type of activity. I also brought up to the directors at that time the undeniable fact that this was a public agency, created to do a public job, that the facilities should be in the hands of the public, and that it would be a good over-all, let's say, philosophy, to have plenty of not only warehouse competition, elevator competition, but rail competition in the harbor. These were the notes that I developed at that particular time. I am going back now four years, and nothing that has happened has in any way at all changed my particular thinking. I think this is a good, sound policy for an agency of our type to adopt.

By Mr. Arnold:

Q. Mr. Cohen, I know you have been under doctor's care for a couple of weeks now, and I don't want to keep you on your feet much longer, but when I went down to Louis- [fol. 3449] ville as guest speaker of the Louisville Chamber of Commerce, it was not the intention to have these exhibits attached to the petition. When I got back I found they were on there nevertheless, but it was probably a matter of policy on the part of our board members, so I would like

to have those exhibits now identified by our witness here, Mr. Cohen, and have them properly recorded.

The Witness: Report 14 is the final report of our consulting engineers to our bankers, bondholders, and to the public as a whole about the finish of the construction program and the fact that it has been done within the amount of money specified, and also their particular satisfaction with the entire thing.

Exam. Albus: Report Number 12 is marked for identification H-3.

(Exhibit No. H-3, Witness Cohen, was marked for indentification.)

Exam. Albus: These exhibits were attached to the intervening petition, so if you have a copy of the intervening petition, they are already attached thereto.

The Witness: G-100 represents the plan of our present construction program, stage number 1, and you will see that it delineates the entire railroad, let's say, trackage that we have constructed in it. It is a full plan of the entire first phase.

[fol. 3450] Exam. Albus: The plan, G-100 may be marked for identification H-4.

(Exhibit No. H-4, Witness Cohen, was marked for identification.)

Exam. Albus: Does that conclude Mr. Cohen's direct testimony?

Mr. Arnold: I would like to have all those exhibits introduced in the case.

Exam. Albus: Any objection?

Mr. Broker: To the receipt in evidence?

Exam. Albus: Yes.

Mr. Broker: No, sir.

Exam. Albus: They may be received at this time.

(Exhibits Nos. H-1, H-2, H-3, and H-4, Witness Cohen, were received in evidence.)

Mr. O'Brien: May we have further questions on behalf of applicants?

Mr. Bordes: Is this direct or cross?

Exam. Albus: Further direct.

By Mr. O'Brien:

Q. In a general way where does your traffic at the present time and also in the future originate and to where is it destined or will be destined?

A. Mr. Counselor, the tonnage which moves in and out of the facilities at the moment is tonnage which originates, I [fol. 3451] would say, through the metropolitan area of Chicago, the area south, southwest, west, northwest, and east to a radius of about 125 miles. In other words, if you take a point about 125 miles east of Lake Calumet and draw the circle to a wide area, say up to 500 miles, you will get a pretty broad and general idea of where the flow of our tonnage is moving at the moment, coming in.

Q. Does that include both into and out?

A. Yes, yes. My estimates here were projected on the basis of the rail business out and the rail business in, because, as you must know, the bulk of our facilities at the moment are being used for the interchange of what we call intrastate and interstate business rather than import and export.

Q. Mr. Cohen, I don't know if you are familiar with Docket 30288, City of Milwaukee versus the North Western, in which the municipal port director of the City of Milwaukee stated that the Milwaukee Port trading area extended from the Rocky Mountains in the west, Canada on the north, and in the east, the ports of Europe and West Indies. Do you anticipate a potential comparable to that for the Port of Lake Calumet Harbor?

A. Mr. Counselor, I have always stated that the most natural hinterlands for Chicago was the area all the way back to the Rockies, down to the Missouri River—of course my good friend in Milwaukee feels he, too, has potential

[fol. 3452] from there, and of course we go back to the element of competition. I believe with the rail service, the rail connections we have to Chicago, that we are in a much superior position to do the bulk of that particular business. In fact I don't think there is any question about it.

Q. Speaking of railroads, do you have your own railroad in the port?

A. No, we do not at the moment, no, sir. The Rock Island serve us today.

Q. Whose tracks are they?

A. They are tracks that are owned by us and constructed by us.

Q. Do you have an agreement with the Rock Island at the present time?

A. Yes, sir.

Q. Does that agreement provide for the inclusion of other railroads in the future?

A. That particular agreement does not give the Rock Island an exclusive to serve the harbor.

Mr. Broker: I don't think that was responsive to the question.

Mr. O'Brien: It is responsive to me. I am willing to accept it.

By Mr. O'Brien:

Q. How many truck lines do you have serving the harbor generally speaking, Mr. Cohen?

[fol. 3453] A. I asked our chief engineer to see if he could make a round-up of the truck lines, and of course not operating these facilities, it is a little bit difficult, but he made a count one day, and I think he told me—he counted 35 different truck companies coming in and out of the harbor at that time. That was both for metropolitan service as well as, let's say, service away from Chicago.

Q. In other words, you are not confined to the services of one trucking company.

A. No; no, the harbor is open for all trucking companies to come in and out.

Q. Is that also true of barge lines and steamship lines?

A. Yes, yes. The harbor is a public harbor. All barge lines come in on the same basis. All steamship lines come in. There are no objections to any of them, and there are no situations set up restricting any of them.

Q. Would you list some of the steamship lines? Fjell Line is one, is it not?

A. That are now using the harbor facilities?

Q. Yes.

A. I think the French Line are using it.

Q. Netherlands?

A. The French Line, that is the French Line, the Manchester liners, the Swedish-Chicago line, the Swedish-American line, the Ahlmann Transportation Company, the [fol. 3454] the Fjell-Oranje service, which is a combination of both companies. These are the lines, the basic lines, that are using it at the moment. There have been many tramp steamers that have come in this year.

Q. You quoted from a resolution your board passed and restated at various times, and that is that you were definitely in favor of more than one railroad and were opposed to the monopoly by one particular railroad serving your port. In leasing your property to your tenants, was that thought foremost in your mind and in their minds as to the fact that they anticipated more than one railroad—

Mr. Broker: I object.

Mr. Dwinell: I object to that.

Mr. Broker: Let the leases speak for themselves.

Mr. O'Brien: I believe he is capable of saying whether or not that entered into their negotiations.

Exam. Albus: The objection is to the form of the question, as I understand it.

Mr. O'Brien: I will withdraw the question and restate it.

Exam. Albus: If you will, please.

Mr. O'Brien: Thank you.

By Mr. O'Brien:

Q. In the negotiations with your tenants at Lake Calumet Harbor, was the question as to the availability of additional railroad services injected into your conversation or into your negotiations?

[fol. 3455] A. I told each one of our prospects that service for the time being was confined to the Rock Island Railroad. I told them that it was our hope that as time went along, other railroads would be in offering additional service.

Q. Do you feel that the port would grow because of additional rail service?

A. Of course. Anything which will help a more fluid movement of traffic and offer these particular potentials will help the port.

Mr. O'Brien: That is all, thank you.

Exam. Albus: Any further direct testimony from Mr. Cohen?

Mr. Olson: Yes, your Honor.

By Mr. Olson:

Q. When you were speaking about the numbers of cars in any particular period, you meant the number of cars per year, did you not?

A. Yes, sir; yes, sir.

Q. It wasn't for a five- or three-year period you were referring to.

A. No, it meant per year.

Q. Also, Mr. Cohen, your petition for leave to intervene has an erroneous docket number for the Michigan Central-New York Central-IHB original application, and it also omits the subsequent 5(2) applications filed by those three carriers. Do I understand that your petition for leave to [fol. 3456] intervene is intended to be in those proceedings as well as those shown on here?

A. I think that should be directed to our counsel.

Mr. Arnold: Yes. It should all be shown on there.
Exam. Albus: Very well.
Mr. Arnold: It was through a misunderstanding.

By Mr. Chartrand:

Q. Mr. Cohen, during your testimony you made reference to the term "public houses." Could you elaborate on that a little bit?

A. Yes. In developing the leasehold for our elevators, we insisted that these elevators be licensed public warehouses, and they have been so licensed, and they operate as public warehouses, and we feel naturally, because they are public houses, that they will be able to do a tremendous, what we call, quick movement of grain, for anybody who offers them the tonnage.

Q. Does the Illinois statute creating the Port Authority refer, among your powers, to building and establishing public warehouses?

A. Yes, sir; yes, sir.

Q. With regard to the sheds 1, 2, and 3, are they also public warehouses?

A. They are licensed public warehouses, yes, sir.

Q. Would that mean that both the sheds and the elevators must hold themselves out to the extent of their ability to [fol. 3457] serve the public, the shipping public, as the demands are made upon them?

A. Yes, sir.

Q. And not to be turned to private use.

A. That's right.

Q. Therefore, is that part of the reason why you measure the potentialities of this port by square feet in the shed area as to what it can do if called upon by the shipping public rather than what the individual company does?

A. Definitely.

Q. Did elevators as reflected upon the map show, one, the elevator number 2, slightly larger than number 1, but in fact they are both the same size?

A. Yes, sir.

Q. Would you say they are almost identical in construction and ability to handle—

A. They are identical. They are twin elevators.

Q. Mr. Cohen, how many vessels, boats, can be docked in front of sheds 1, 2, and 3 simultaneously?

A. We have 3500 feet of frontage at that particular location. Today, with the small 250 foot ship, I would say that it is practical to dock at least 12 ships simultaneously. With the opening of the seaway, when we have ships that will be approximately 400 feet, we can handle very comfortably there eight ships simultaneously.

[fol. 3458] Q. Might not those ships have inbound import cargo on that they would be discharging at a time when those ships would also have accumulated outbound export cargo?

A. Yes. The very nature of the business, especially with an eight-month season, predicated a situation of where you have a mass amount of tonnage to handle. You have stuff coming off the ship that must be disposed of. You have stuff in the house waiting to get on board the ship, as well as naturally in rail cars behind the docks.

Q. Would those public warehouses and the public elevators be simultaneously doing a large domestic business being received and forwarded by all forms of transportation?

A. Definitely, definitely.

Q. What is the present capacity of the hold tracks within the Chicago Regional Port District?

A. By "hold tracks" I presume you mean the tracks that are heading north behind the elevators.

Q. Yes, sir, that are not aside the shed by the elevator facilities.

A. I think those tracks will hold about 300 cars, that is all.

Q. Are demands made upon those storage tracks by the existing two elevators as well as the sheds 1, 2, and 3 and the back-up sheds presently in existence?

A. Yes, sir; yes, sir.

[fol. 3459] Q. Those tracks will in part be called upon to meet the demands of both the inbound and outbound arrivals into the Port District?

A. Yes, sir.

Q. Now, what happens at the Port District when those tracks are no longer able to accommodate the requirements of these public elevators and public sheds?

A. The only obvious thing that happens is that we have to get additional trackage, and that particular trackage must not be in the harbor because we do not intend to make any more hold yards in the harbor as such. This trackage has to be adjacent to the harbor.

Q. Is that true of the entire expansion through phrases 2, 3, and on through the ten-year period, that it is not contemplated that additional hold track or storage track facilities of which we have here spoken, will be expanded?

A. That's right, yes, sir.

Q. Therefore, is it then a physical requirement that will be projected upon the railroad or roads serving the port?

A. Definitely, yes, sir.

Q. Do you have any first-hand knowledge with regard to what has gone forward to date, if your experience has shown, as to the backing up of inbound cars to hold yards outside of the Port District?

A. I understand that there have been times when the [fol. 3460] congestion has been rather thick and the stuff has backed up, but generally the operation has gone along in pretty decent fashion for a new operation.

Mr. Chartrand: Thank you.

Exam. Albus: Any further direct?

(No response.)

Exam. Albus: Let the record show a recess until 2:00 o'clock.

(Whereupon, at 12:25 p.m., a recess was taken until 2:00 p.m. of the same day.)

[fol. 3461]

Afternoon Session 2:00 p.m.

Exam. Albus: The hearing will please come to order. I understand there is one more question on direct of Mr. Cohen.

Mr. Arnold: I would like to ask Mr. Cohen one question.

MAXIM M. COHEN resumed the stand and testified further as follows:

Direct examination (continued).

By Mr. Arnold:

Q. Do you know whether or not there are any plans on the board now for the construction of new ships on the seaway for 1959 when the deeper departments get in there, larger ships than the prevailing ones now?

A. I know of five specific plans that are on the boards today for the construction of ships that will be set up for the seaway, and I have participated with suggestions as to the buildup of these ships with all five companies, indicating a potential length of anywhere from 385 to 425 feet, with beams of from 52½ to 60, and more especially the construction of the ship so that it would take its maximum load at 24 feet of draft which I felt would be proper and which, incidentally, most of the foreigners I have talked to have agreed as to the more or less proper draft for the ships that they are going to construct.

Q. Does that conclude what you have to say?

A. That is all.

Mr. Arnold: Thank you.

[fol. 3462] Exam. Albus: Cross examine, please. Mr. Dwinell.

Mr. Dwinell: I was just going to interpose this one statement, Mr. Examiner, that I think either now or at the close of this session we ought to have a little discussion

about how long this hearing is going to last, what the hours will be, and so forth.

Exam. Albus: I am in favor of that.

Proceed, please.

Mr. Dwinell: Now or later?

Exam. Albus: At the end of the day.

Cross examination.

By Mr. Dwinell:

Q. In the first part of my questions of you, Mr. Cohen, in view of the condition of your voice, I will try to ask very simple questions to which I think you can give very simple answers. As I understand the plans and hopes and ambitions of the district, it is that it, as a business organization, will dredge channels and slips and will deposit the soil which is secured by that dredging on the side to form land between slips, upon which will be erected facilities for the handling of traffic, is that right?

A. Yes, sir.

Q. It will be the purpose and the hope of the district, if it can, that it will lease raw land to people who may want to put facilities, or if the lessees of the land will not [fol. 3463] want to build the facilities, then the Port District, if it is able to secure the money, will build facilities and then lease the facilities to people who will operate them.

A. That is right.

Q. In order that you might accomplish that objective, you went to the legislature at the last session and secured legislation which made it possible for you to lease, as I have indicated.

A. That is right.

Q. I think if you did not use the words "free enterprise system" this morning, you have at various times stated that you thought this was the way a facility of this kind should be operated, under the free enterprise system.

A. Mr. Dwinell, I have stated that our philosophy was that the facilities created should be turned over to private operators for lease and operation, and that is how our law reads.

Q. That is right, and that is a part of the free enterprise system, I thought I had heard you say sometime.

Now, these people to whom you are turning these facilities over for operation, you desire them to have equality of opportunity to operate to the best of their ability in the furtherance of their business, is that right?

A. Yes, sir.

Q. As a part of this equality of opportunity you don't [fol. 3464] want the Rock Island to have any monopoly; it is all part of the same philosophy, is that right?

A. No, sir.

Q. Well, I read in your statement this morning that under no circumstance should a monopoly or exclusive privilege shall be granted to any single railroad carrier to serve the Lake Calumet Harbor.

A. That is as far as the railroad is concerned, but not in connection with the operators.

Q. I was speaking only of the railroads.

A. I see.

Q. You are against the Rock Island Railroad having a monopoly.

A. We are not against the Rock Island Railroad, Mr. Dwinell.

Q. No, having a monopoly?

A. That's right.

Q. In other words, you want all railroads to have equal opportunities in the port.

A. Providing they can make access to it.

Q. Now, likewise, you want industries to operate with opportunities, to operate successfully.

A. Yes, sir.

Q. And that is all that you want as a municipal corporation, that this entire operation shall be handled in a fair and equitable manner with extra rights and privileges to nobody.

A. I think that spells out our philosophy.

[fol. 3465] Q. In connection with this, the Port District will not itself be a shipper except—and I want to qualify that to one very, very small extent—in the construction of buildings, where you contract for somebody to build a building, the contractor may be the actual shipper, though indirectly he would be handling the construction work for you, and to that extent that he might be termed your agent, that would be the only time that you would be a shipper or could be considered as such.

A. Yes, sir.

Q. Or if you were maintaining facilities, such as railroad tracks, roadways, bulkheads, or whatever, you might be a shipper under those circumstances.

A. That is right.

Q. But it would be only construction and maintenance in which you would be involved.

A. That's right.

Q. I was going to ask you, but I will state these facts and ask you just for a yes or no answer. Transit shed 3 was finished in August of last year?

A. It was finished for partial occupancy in August of last year.

Q. Transit shed 3 in September?

A. For partial occupancy, that is right.

Q. Transit shed 1 in December?

[fol. 3466] A. Yes, sir.

Q. The back-up warehouse in September and October of last year.

A. October of last year.

Q. The elevator number 1 in June?

A. For partial occupancy only.

Q. In June of 1957.

A. That is right.

Q. Elevator number 2 in July.

A. That's right.

Q. Those facilities which you have just mentioned comprise the facilities at the south and southeast corner of the lake and are portrayed on Exhibit H-2.

A. Yes, sir.

Q. And those are the facilities which are now constructed.

A. That is right.

Q. You covered this to some extent this morning, but I would just like to summarize what my understanding is of what you said. You are going to build more transit sheds, more warehouses—

A. That is right.

Q. —more elevators, a tank farm, if and when you get money.

A. I qualified my statement. I said we would either build it with our resources if we could get the money, or if not, they would be built with private resources under leasehold [fol. 3467] arrangements that we would make under the law as it now exists.

Q. Do you have any other kind of facilities which you would propose to build or have built other than the specific types which I have just asked you about?

A. Yes. At the moment there are some trucking facilities that are espoused, but that is under a completely different basis.

Q. Yes, I understand. Now, do you contemplate any coal facilities?

A. No, sir—wait a minute. Let me qualify. You mean rail coal facilities?

Q. Water coal.

A. Yes, we are thinking—

Q. Coal which would be brought in by rail and transferred to water.

A. Not that way, no, sir. We haven't contemplated any rail facilities for coal.

Q. They would be barge-lake facilities for coal.

A. That is right. I have stated we would not build any rail facilities that would be competitive with the present setup on the Calumet River on the rail and water.

Q. In connection with the development you outlined this morning going from slip number 1, 3, 5, 7, 9, and I think up to 11, or 13, I am not sure, that called for a simultaneous

[fol. 3468] extension of roadways and railroad tracks up the east side of the lake, did it not?

A. Only as the facilities are constructed.

Q. Yes. I say simultaneously a development up the east side of the lake of roadways and railroad facilities.

A. Yes.

Mr. Broker: Excuse me. You meant west side.

Mr. Dwinell: The west side. That is what I mean.

By Mr. Dwinell:

Q. You and I have had many conversations, and I think the result of those conversations is that your plans also contemplate that if and when those rail facilities reach the north end of the lake, or perhaps even before the full development of the west of the lake, there will be a connection with the Rock Island Railroad at the northwest corner, is that not right?

A. I will go beyond that, Mr. Dwinell. I stated before this connection was set up at the south end that I thought the proper place for that connection was at the north end so the tracks would come down, and I have on more than one occasion discussed the advisability of a connection from the north coming down so we would have a run-around.

Q. So that the present plans finally call—if, as, and when—for a connection of the Rock Island Railroad at the northwest corner.

A. That's right.

[fol. 3469] Q. How many miles of track do you have in what you might call the yard which extends north from a point near the elevator up the west side of the lake? And I am differentiating now between the group of tracks up there which would look like yard tracks and tracks which may lead off from those yard tracks into the two elevators, the transit sheds, and the back-up warehouse.

A. I can't answer that. I don't know the breakdown of it. I know we have 14 miles of track in the yard now altogether.

Q. Well, of that the very, very great majority percentage-wise would be along the lake shore immediately east of—

A. That is right, yes.

Q. You are planning in this territory the development of a port—and again I want to state if I can your conception as you indicated this morning—you plan a development which would be a combination of a seaport, a lake port, a barge port—if there is such a word—on the one hand; land facilities, truck and railroad, on the other, and facilities which would handle all kinds of this traffic, some of which would be primarily for the transfer of cargo from one method of transportation to the other, and you also plan for industrial development; that is, there will be factories and institutions of one kind and another which will transform raw material into manufactured products and so forth, a typical industry. Have I expressed myself right?

[fol. 3470] A. I think you have, Mr. Dwinell. We have always planned that this would be an integrated and comprehensive transportation center available for all forms of transportation and have in it all of the buildings and the varying types of facilities necessary for the interchange, the storage, and distribution of traffic, yes.

Q. I would like to discuss first the lake traffic and the foreign commerce traffic which will have its origin or its destination at this harbor. I believe you stated this morning that the territory from which you would draw the export business from or the territory from which you would draw your export business and the territory to which the import business would go would be bounded on the east by a circle which would have a radius of 125 miles, and that radius would extend south and southwest and then would sweep around and come back to Chicago on an area at its furtherest extremity of 500 miles, was that right?

A. Generally speaking that is correct, with the exception that I did modify it, and I said on export-import traffic that we would be competitive all the way to the Rocky Mountains.

Q. That is right. That was at a later time when you made that statement. I was going to bring that one in.

That territory, that export movement and import movement from Chicago through Lake Michigan and the St. Lawrence Waterway will be competitive with eastern ports, [fol. 3471] Boston, New York, Philadelphia, Baltimore, and perhaps some others, will it not? That is, if there were products in this territory before which were to be exported, they would have moved from this territory east to the Atlantic ports or south to the Gulf ports, and if they do move through Chicago, it will be because of your competitive advantage.

A. I will have to give you a qualified answer to that, Mr. Dwinell. I have stated publicly that with the seaway we expect to develop new traffic and that our competitive position in a little while will be such that we won't be bothering the Gulf and the Seaboard very much.

Now, I recognize that for the first two or three years we may have some dislocations, and we may be somewhat competitive on certain items until we settle down in this business.

Q. Well, let's just take the item of grain. Grain from the territory which would be tributary to this port, if it has moved out, has moved out to Europe either by the Gulf Coast or the Atlantic Coast, has it not?

A. That is right.

Q. And to the extent that it moves out through this port, it will not move out through the Atlantic ports, isn't that right?

A. Somewhat, yes.

Q. Well, in so far as it moves, in so far as it moves through Chicago, it will not move through the Atlantic [fol. 3472] ports, will it?

A. I disagree with you completely on that, because I think a great deal of grain is going to be bought on the commercial market by foreign operators for movement out of Chicago because of the availability of these ships in lieu of their buying in some other market, say in the Argentine or perhaps Canada. I believe we are going to build a free and open market here because of the availability of these

ships so we are not going to be completely competitive with present shipping as it is.

Q. Well, let's take a bushel which today, if it wants to be active, must be exported through New York. If it moves through Chicago tomorrow instead of New York, it would have changed its method of transportation.

A. If that happened tomorrow it would be a fact, but with our present small 250 foot ships, it is a physical impossibility.

Q. Next year then.

A. Two years from now, yes.

Q. Farm implements and a vast number of industrial products of the middle west, if they move for export, they move to the Atlantic Seaboard also, do they not?

A. Or the Gulf, as the case might be.

Q. I am speaking particularly of the territory up in our neighborhood. If those products, if this port is developed with the development of the St. Lawrence Waterway, this [fol. 3473] port will be in competition with the eastern ports, will it not?

A. To some extent, yes.

Q. To whatever extent it is competitive and to whatever extent this port gets the business, less will move through the eastern port, will it not?

A. I can't agree with that particular philosophy, Mr. Dwinell. I think we are going to move more things because more markets will be available on a cheaper basis.

Q. And those things which move and which formerly would have moved through the Atlantic ports will now move through the Chicago port, won't they?

A. To some extent, yes.

Q. To the extent then that they do, Chicago is going to be competitive with the eastern ports.

A. To some extent, yes.

Q. And to the extent, whatever that might be, that materials which did formerly move through Chicago to the eastern seaboard by rail terminate at Chicago for transshipment by lake east and through the St. Lawrence Water-

way or to eastern termini, the movement of those materials will be competitive with the railroads in the east, will it not?

A. To some extent, yes.

Q. Well, to the extent that this port succeeds.

Now, what do you think or what has been the attitude of the New York Central and Pennsylvania Railroads toward [fol. 3474] the development of this port? And I refer you particularly to the free time case. Did they oppose or did they assist in the securing of free time for the Port District?

A. Well, if you are speaking of that particular case, the record speaks for itself. Let's say they didn't help us.

Q. Well, didn't they oppose you?

A. I guess they did, sir.

Q. Based on that, what do you think the participation of the Pennsylvania and the New York Central Railroads will be in the future for the development of the export and import business through Chicago as against the Atlantic Coast ports?

A. Mr. Dwinell, I have to answer that question in two pieces. I am convinced, and so is our Board, that much of the prejudice that existed against the seaway route will be a thing of the past in the next two or three years. I think that you must go back to something else I stated, which seems to be overlooked in the conversations that we have had here, and that is that the concept that this port, let's say, goes beyond simply a point of interchange for ocean business. I have tried to explain that the facilities, the type of facilities, the buildings that we are going to construct are warehouses and layouts that can be used the whole year around rather than trying to simply have an eight-month operation for import-export business.

Q. I didn't overlook that. You will recall that I spoke of [fol. 3475] facilities of various kinds—

A. Yes, you did.

Q. —and then said, I wish to direct my attention now solely to the export and import phase: what was the question?

A. I think I understand the question; as to what they are going to do with in connection with export business out of Chicago.

Q. Are they going to be happy or unhappy?

A. I think you are asking me a question that I am not particularly qualified to answer. I don't know that.

Q. Do you anticipate great assistance from the New York Central and Pennsylvania Railroads in the development of the export and import business?

A. We are hopeful, Mr. Dwinell, that if they are in the harbor there will be less friction and more understanding on their part. That is the only answer I can give you at the moment, sir.

Q. In other words, hope is what you have.

A. Yes, sir; that is right.

Q. And all that you have.

He nodded yes.

I asked you a few minutes ago about the places from which you expected to get your export and import business, and I will ask you what business you expect to get within a radius of 125 miles to the east of Chicago as compared with the business which will be developed for export and [fol. 3476] import business over the balance of the country.

A. I should say that at least 85 to 90 per cent of our business must come from metropolitan Chicago in the area that is, let's say, west of it, north, south, and southwest. I think perhaps 10 per cent of our business might come from the area you speak about, or let's say, tributary territory like that. We are speaking of import and export business. I am not speaking of domestic business.

Q. That is right. I am confining myself to that exclusively.

Now, the fact of the matter is, however, isn't it, Mr. Cohen, that the water movement in and out of the port to the east is the cause, the fundamental, basic cause, for the construction of the harbor facilities at Lake Calumet?

A. I don't quite get the essence of that.

Q. Well, the core, the core of your business, without which all of these other things wouldn't be possible, is the lake business to the east and to the foreign countries.

A. Well, let's say it is one of the important reasons for our being, yes.

Q. Well, if it were not present, then there wouldn't be a port district, would there?

A. I think there would be.

Q. A port district?

A. Yes, yes; because the Port District came into existence, if you remember, prior to the passage of the St. Law- [fol. 3477] rence Seaway legislation.

Q. I understand that, but it came into existence also at about a time when foreign ships were visiting Chicago.

A. Foreign ships have been visiting Chicago, as you know, for better than 25 years. I helped bring them in here at that time. So foreign shipping as such is not new to this city.

Q. You would say that the foreign traffic or eastbound lake traffic is only a factor as a reason for the development of the port?

A. I would say it is an important factor, absolutely.

Q. The most important, isn't it?

A. Not according to our concept now, sir.

Q. I didn't ask about your concept now. I say, from the inception and the conception of the idea it was the core upon which the thinking of the development of the port was based, was it not?

A. Yes, I suppose so.

Q. And all of the rest is a byproduct.

A. No, sir.

Q. Not a byproduct of the central reason?

A. No, sir.

Q. Well, I don't quite understand—

A. I think I can explain that. I tried to explain it before when I stated that this particular body of land and water was a fusion point between barge and lake, and I think [fol. 3478] that our potentials that will come out of barge

traffic are every bit as great as what we will get out of the lake interchange; in fact, by volume I wouldn't be surprised if our barge business is much higher in five years than what it will be by lake.

Q. That is what I am saying, that the original conception was for a harbor and that the general industrial and warehouse business has grown out of that original conception.

A. If you want to paraphrase it that way, yes, sir.

Q. When did the applicants first approach the district with a view of getting in?

A. I am positive, Mr. Dwinell, it was in 1954, before we had started any construction program whatsoever, that I had been contacted by representatives of the Belt Railroad Company—I think it was either Mr. Evans or Mr. Wasson—I know I was contacted at that time by some members of the Indiana Harbor Belt through the real estate and industrial department about switching, and I was also contacted by the IC & Pennsylvania in 1954.

Q. In 1954.

A. That is right; yes, sir.

Q. That was before any of these facilities were built, before any money was borrowed, before any plans actually were made as to what was to be done.

A. Yes, sir.

[fol. 3479] Q. So they were attempting to get in here before there was any traffic actually in sight.

A. That is right; yes, sir.

Q. On April 11, 1955, you wrote us a letter—I think you wrote all the railroads a letter—in which in general you said that a large railroad has offered to lease all your properties, railroad properties, or construct them, and asked us what our views were on that. Do you remember that letter?

A. I do remember it, yes, sir.

Q. I will ask you if that is a correct picture of that letter?

A. That is right. I remember the letter very distinctly, yes, sir.

Mr. Dwinell: I would like to have that marked.

Exam. Albus: This is H-5 for identification. What is the date?

Mr. Dwinell: April 11, 1955, addressed by Mr. Cohen to Mr. Farrington, the president of the Rock Island Line, and copies of that letter were sent to all railroads, were they not?

The Witness: Yes, sir—not to all railroads, say to most of the railroads in the Chicago area.

(Exhibit No. H-5, Witness Cohen, was marked for identification.)

By Mr. Dwinell:

Q. What railroad was that who had written you a letter [fol. 3480] saying they would construct or lease all the railroad facilities?

A. It was the Pennsylvania Railroad.

Q. Mr. Farrington immediately thereafter wrote you a reply, did he not? I would like to have you glance at that and see if that is the letter.

A. It is the letter, and I remember it very distinctly.

Exam. Albus: H-6 for identification.

Mr. Dwinell: April 27, 1955.

(Exhibit No. H-6, Witness Cohen, was marked for identification.)

By Mr. Dwinell:

Q. However, the writing of that letter by the Pennsylvania Railroad, saying that they wanted in to the district, followed conversations, I understand, which you had had with the Pennsylvania Railroad prior to that.

A. That is right; yes, sir.

Q. What is the earliest knowledge that you have of any railroad considering or attempting, of the applicant railroads, to get into the Lake Calumet area?

A. Well, would you consider the request that was made to us—

Q. Any time.

A. Any time?

Q. Any time.

A. I think I told you in 1954 these folks talked to me, and I contacted your particular railroad as to whether [fol. 3481] they could have bridging rights to come in, and you very politely answered no, and in turn I had to advise them that this was the situation, and they would have to seek some other way of making contact.

Q. I am speaking now of ever. What is your knowledge as to the efforts of any railroad ever, beside the Rock Island and the Pullman, to get into the Lake Calumet area?

A. Are you speaking about the case in 1946?

Q. Right.

A. Yes, certainly; 1946.

Q. That case was the case in which the Illinois Central made application of the Illinois Commerce Commission and asked authority to cross the Pullman Railroad Company on Doty Avenue and get into the port.

A. That is right.

Q. That, however, was long before the formation of the Port District.

A. That is right.

Q. Did the efforts and conversations or apparent efforts, of the Illinois Central to get in continue from that time, so far as you know? Did they keep talking about it?

A. I went to Europe in 1947, and I was out of the city until 1953, so in the interval I don't know what happened. I came back to the Port District Board in the fall of 1953, and I can only recount my experiences since then.

[fol. 3482] Q. After you came back, then the Illinois Central started, so far as you know.

A. Yes, I talked to several of their individuals on more than one occasion.

Q. I would like to ask you to repeat again for me—because I didn't do a very good job of getting them down—the five reasons which you said you gave the Board one time about this railroad situation. Could you repeat those to me?

A. Yes, I think I can. I told the Board that a district of this particular type, if it was served by belt lines, especially, at that time, or more railroads, would have more possibilities of one, two, and three-line switches in and out of the Chicago area, and I felt on the over-all development of the warehouses and other facilities that this could become very, very important from distribution. As I remember, the second reason—

Q. Just a minute. Let me get the first one again. You want more than one line of railroad in there—

A. That is right, so we could have more one and two-line hauls instead of three-line hauls.

Q. All right.

A. I think the second reason, as I remember, was the possibility of a strike. I can't remember at that time whether any single railroad was on strike, but we discussed the thing, and I called the Board's attention to the fact [fol. 3483] that if there was a strike on the railroad serving—and we only had one railroad—that all service in and out of the Port District, would be estopped, and we would be badly, let's say, confused and confined to troubles if this was the case.

The third reason that I gave to the Board at that time—and mind you now, we were talking in an abstract way about elevators and things of that nature—was the necessity for car supply, and I remember telling them distinctly that if more railroads were there, more railroads could be called upon to supply cars. I think one of the other reasons I gave—and it goes back to something that was fundamental with me at that time—was that if more railroads were in, there would be more competition, and naturally we would get better service. Then I think one of the other reasons we discussed, and I don't believe this

originated with me, because I think it originated with our chairman at that particular time, was the philosophy of a board of our type in business through an act of the legislature and trying to serve the public interest, and that it was unfair to monopolize the service for one railroad, and at that time we talked about the possibilities of more railroads having access. I think those were the general reasons I gave at that time, and I can't think of any others at the moment.

Q. There was one other one you gave this morning you [fol. 3484] left out, I think. Acceptance by the railroads of the importance of export and—

A. Oh, yes; oh, yes. I did state that if we had—and I am speaking again, I am pretty sure, of the belt railroad at that time. I tried to explain to our directors if the Belt Railroad Company of Chicago was serving the harbor, that more of their lines, because they were owners, could be contacted directly for, let's say, a better understanding of import and export rates, and that I felt these contacts that could be had would be beneficial to the port, and because of their over-all interest, that we might get better acceptance and quicker establishment of these rates.

Q. Yes. I just wanted to get these fixed. Sometime in your testimony this morning you talked about—and I can't recall exactly what your statement was—something about belt lines. When you spoke of those, did you mean the Indiana Harbor Belt and the—

A. I started to talk originally about the Belt Railroad Company of Chicago, and then subsequently I talked also about the IHB, because as I recall, some of their executives came in and stated they, too, had an interest in coming in, and they expressed at that time their ability to come in by crossing—

Q. No, I meant this morning in your direct testimony. You said something about the advisability of having belt railroads.

[fol. 3485] A. I meant more than one. I meant the two belt railroads.

Q. You thought they ought to be in.

A. Yes, sir.

Q. As you were expressing that, were you expressing the idea that they be enough?

A. Sir?

Q. Were you expressing the idea then that they would be enough?

A. Mr. Dwinell, no, sir. I said I thought it would be a very, very fine thing at that time if they were in.

Q. If they were in, and at that time, however, you were not thinking about others being in.

A. Back in 1953 and 1954, no, sir. I was thinking about belt lines, pure and simple.

Q. Now, Mr. Cohen, you testified, did you not, in the Illinois Central case before the Illinois Commerce Commission—

A. That is right.

Q. —in 1947.

A. I did, sir.

Q. At that time you were connected with the North Pier Terminal?

A. I was, yes.

Q. Your testimony before the Illinois Commerce Commission consisted in part of the reading of a letter from Mr. Huggett who was the president of the North Pier [fol. 3486] Terminal, and in part which you, yourself, gave. For you remember that?

A. I remember the circumstances. I don't remember the letter, but if that was the case, it was so.

Q. At the time that you testified, there was an application of the Illinois Central to enter the port, was there not?

A. Mr. Dwinell, I think the Illinois Central had asked the City of Chicago for permission to come into the south end and create some facilities. There was no port there at that time.

Q. That is right. This was in 1946.

A. That is right.

Q. And you were thinking of building facilities.

A. I think the North Pier Terminal at that time had agreed that if the IC came in, they would build some facilities; yes, I think so.

Q. I would like to read portions of this letter which you endorsed: "We have in the past and do advocate now that the Illinois Central Railroad be granted these track rights because it is the only midwestern trunk line railroad with its main line adjacent to the lake and with sufficient terminal facilities closely to give Lake Calumet the type and nature of rail service it will require."

A. I recall that; yes, I do, certainly.

Q. "Our thought is that it is absolutely essential to have direct trunk line access in order to procure and develop [fol. 3487] the type of rail rates essential to make possible the large movements of tonnage in and out of Lake Calumet." Do you remember that statement?

A. I think I do, even though it was eleven years ago.

Q. "No midwestern rail line, in our opinion, is better located to serve Lake Calumet and carry tonnage into the districts feeding this tonnage than the Illinois Central Railroad." Do you remember making that statement?

A. I do, sir; yes.

Q. Incidentally, these pages that I am reading are from pages 111 to 171 of the record of that proceeding.

Mr. Burchmore: That is a record before whom?

Mr. Dwinell: The Illinois Commerce Commission.

Mr. Burchmore: Can you give the title of the case and the number?

Mr. Dwinell: It is the Illinois Central Railroad Company and the Kensington and Eastern versus the Department of Public Works and Buildings, Divisions of Highway, et al. In the Matter of the Petition of the Kensington and Eastern Railroad for Permission to Cross Right of Way and Railroad of the Pullman Railroad Company and to Cross Doty Avenue at Present Grade in the Vicinity of 127th Street in Chicago, Cook County, Illinois, and the number, I would say, is 34895. It is pretty dim.

Mr. Guandolo: That is right.

[fol. 3488] By Mr. Dwinell:

Q. "In formulating our opinion as to the rail line best suited to handle the rail service in and out of Lake Calumet as against any belt or industrial switch carrier, we have been motivated and governed entirely by facts bearing on the over-all construction of the initial terminal facilities as well as the requirements of the development in the years to come." Do you remember making that statement?

A. Mr. Dwinell, you are quoting me out of context. I think it is only fair, and it should be proper, to explain the background of that particular case so that the examiner and the others would understand it.

Q. Go ahead.

A. At that particular time I was manager of marine traffic of the North Pier Terminal and the East Chicago Dock Terminal Company. The management of that company at that time saw a possibility of developing coal facilities in Lake Calumet, and in looking the situation over with the president of the company, who incidentally is in this room today, we came to the opinion that it would be feasible, and we thought at that time practical, for this facility to be developed at the lower end of Lake Calumet, where there would be plenty of room to construct cars and go ahead with an operation of this type, and at that time I think the North Pier were convinced that they could also build a shed and start some business of that particular [fol. 3489] nature. It was a proposition that had to do basically with coal. The Illinois Central, I think, at that time were handling maybe 75 or 80 per cent of the coal volume, so it seemed that this was a sensible thing to do, because of the proximity of their track and the yard that it was near it. I don't think it is fair to try to presuppose that my thinking eleven or twelve years ago is what I am thinking about at this moment. I think my thinking at that time was predicated on the facts as I saw them then.

Q. I will read another paragraph just to see whether I have been fair or unfair. "Our experience in this district for the past 25 years has decided for us that no location

in the city is more ideally located for a universal transfer terminal for water, rail, or truck tonnage than Lake Calumet."

A. Isn't it interesting I had that concept then and I hold to it today, sir.

Q. Yes, sir. At that time you were advocating the entrance of a large midwest carrier as against any belt railroad.

A. As against the Pullman Railroad, sir.

Q. No. The language was, "as against any belt or industrial switch carrier."

A. Then I am wrong. I thought I confined it exactly to the Pullman Railroad.

Mr. Burchmore: What were those words? You dropped your voice. I am Mr. Huggett's attorney, and I would [fol. 3490] like to hear what he said. "As against" what?

Mr. Dwinell: "belt or industrial switch carrier."

By Mr. Dwinell:

Q. Later on you were asked whether you endorsed everything that was in this letter. Do you recall that you said you did?

A. You mean the letter I wrote eleven years ago?

Q. The letter Mr. Huggett wrote, and you were asked do you endorse—

A. Oh, sure.

Q. —everything that has been said. Then your ideas have changed on this in the intervening years.

A. Of course they have, Mr. Dwinell; of course they have.

Mr. Broker: What was the answer to the other question that you endorsed these statements?

Mr. Dwinell: Yes, he said he did.

Mr. Broker: Did you say yes? I didn't hear it. Is his answer yes to the end of the question?

The Witness: I think his question was have I changed my mind, and I said yes, I have changed my mind in the last eleven or twelve years.

Exam. Albus: Next question, please.

By Mr. Dwinell:

Q. I have here, which I would like to offer in evidence, copies of the transcript of the record which contains the testimony about which I have just been talking, in so far as it contains Mr. Huggett's letter.

(Exhibit No. H-7, Witness Cohen was marked for identification.)

[fol. 3491] Mr. Wright: This is not his whole testimony?

Mr. Dwinell: That is the excerpt.

Mr. Burchmore: Is this offered for purposes of impeachment either of the witness or Mr. Huggett?

Mr. Dwinell: No.

Mr. Burchmore: What is the relevancy, may I ask?

Mr. Dwinell: The relevancy is that at that time they testified that the services of a strong midwestern carrier were required for the development of this district.

By Mr. Dwinell:

Q. You gave me some figures this morning—gave us some figures this morning—on carloads in and out of the port, and those figures really came so fast that I am confused about them, and I am not going to ask you to go back and reconstruct them, but as I got your statement, it is this, that after the seaway is completed, after the port is developed to its full capacity—I mean physical capacity for development—which is contingent upon finding lessees in part or finding money in part to construct facilities, and if all of the facilities which will be constructed, if, as, and when, are operated to their full and complete capacity, and if the percentages used by you in computing the portion of traffic which would be handled by railroad are fully realized, there would be 332,000 cars in and out.

A. I never said that, Mr. Dwinell. I stated that my belief was that within ten years we would have a commerce [fol. 3492] in and out of the harbor of about—I said 77,000 cars here by 1962, and by 1968 I figured we would have 50

per cent more, a little better than a hundred, and I stated that when and as these facilities are completed—and I mentioned to you the potential of 3,000,000 square feet of space here, warehouses and transit sheds, as well as the other—that I expected there would be approximately 250,000 cars potential from the whole area; that is, commercial and industrial, and I tried to explain in as simple language as I knew how, what the industrial potential was to figure this up.

Q. I had your figure of 116,000. Then I understood you to say that the final stage of development, you thought, would double the 116 and produce 332.

A. I said that we ought to increase it at least 50 per cent, and when the whole thing was finished all the way around the lot, that it ought to be better than 250,000 cars.

Q. All right. Just changing 330,000 then to 250, did I understand your statement correctly?

A. Yes, that is about right; yes.

Q. In making your estimate of 250,000 or 116,000 or of 77,000 totals for various years or 15,000 for the rail tonnage, I think, for the elevator and 6,000 for transit, and some more for warehouses, and so on—each one of those figures—did you break those down by commodities other than grain and then everything but grain?

[fol. 3493] A. No, Mr. Dwinell, I did not, because I don't believe that even with the experience I have had that I am capable of doing that. These are figures that I believe, out of my lifetime of experience and with the type of facilities that are potential in and out of this place, that are the most intelligent forecast I can make at the moment.

Q. What I meant was that you had grain in one category, and then all the others are lumped.

A. That is right.

Q. I meant, you didn't have automobiles and tractors and this and that.

A. Of course not.

Q. You did not, or did you, break those down as to origins and destinations?

A. I have been waiting for you to ask that particular question, and the only answer I can give you, Mr. Dwinell, is to go back again to simply a private opinion of my own, that 40 to 50 per cent of the business which will move in and out of these facilities will originate or be destined in what we call the metropolitan area of Chicago. This isn't the first time I have said this.

Q. In other words, 45 or 50 per cent of these carloads—

A. That is right.

Q. —would be City of Chicago cars.

A. Metropolitan area cars, yes.

[fol. 3494] Q. And the balance—

A. About 60 per cent would be road haul, yes.

Q. About 60 per cent.

A. Yes, sir.

Q. What portion of the land traffic do you attribute to railroads? That is, you say that there will be 250,000 cars of rail freight, and let's say that that represents "X" volume. How much do you anticipate will move out by truck?

A. At least as much.

Q. And of that which moves in the City of Chicago, what proportion do you figure will move by truck?

A. I think the bulk of it, I think at least two-thirds of the deliveries in Chicago by truck, you see, will be in the metropolitan; one-third, what we call night haul business away from Chicago.

Q. Let me see. I am afraid I am just a little bit confused. Let's say there are a hundred units.

A. Yes, go ahead.

Q. How many of those will be handled in Chicago?

A. You mean by rail?

Q. No, altogether.

A. I can't answer your question. I think I can answer your question more specifically the way you had it before. You asked me first on the stand what percentage of the [fol. 3495] rail volume would be destined outside of Chicago and in the metropolitan area. I gave you the answer.

Q. Forty per cent and 60.

A. That is right. Then you asked me another question as to what I anticipated the truck traffic, and I told you I thought it would be as much as the rail. In other words, if there were 250,000 cars, you would be more or less spreading out the trucks on the same thing. Then I went further. I told you that of the truck traffic at least—let's say 60 per cent of the truck traffic would be business that would be destined or originate in metropolitan Chicago, but only about 40 per cent back in the hinterlands.

Q. Then if I now understand, what you are saying is that you would have 100,000 carloads of railroad business moving in Chicago, and you would have the equivalent of 150,000 carloads moving by truck within Chicago, is that right?

A. No, sir, I didn't say that; I didn't say that, sir.

Q. Let us take our hundred thousand carloads moving within the switching limits of Chicago. The equivalent of how many carloads would move by truck?

A. I told you I thought as much truck.

Q. In other words half the Chicago business will move by truck and half of it by rail.

A. Half by switch, that is right.

Q. When of the business that moves out into the outer [fol. 3496] territory there would then be left 150,000 carloads of rail freight, there would be how much truck equivalent?

A. Outside the area?

Q. Yes.

A. I said about one-third of the volume.

Q. 150,000 for rail. How much for truck?

A. I said about a third of it, about 50,000 tons.

Q. Equivalent of 50,000 carloads.

A. Yes.

Q. So the outside business, outside of Chicago, will move two-thirds by rail, one-third by truck?

A. That is about right. That is how we calculated it.

Q. In Chicago—

A. About 50-50.

Q. About 50-50.

A. That is right.

Q. So that there will come through, to be handled by truck then, 100,000 of in-city stuff, and 100,000 of out-city stuff, and then on top of that, 250,000 carloads of rail freight.

A. When the whole thing is—

Q. On the whole thing. I am getting it all wrapped up in one ball—the equivalent of 450,000 carloads of freight.

A. You mean by truck and—

Q. Truck and rail.

A. That seems to be about right.

[fol. 3497] Mr. Chartrand: I wonder if I could ask a question at this moment. If I construe your questions properly, you are talking about total business, the 300,000 cars, are you not?

Mr. Dwinell: 450,000, equivalent to 450,000 carloads, yes.

Mr. Chartrand: The total business.

Mr. Dwinell: That is right.

Mr. Chartrand: Do I understand you correctly in your answer, in apportioning the percentage that will originate in Chicago by truck as compared by rail, you are thinking of general cargo and not grain?

The Witness: I am not thinking of grain at all because there is no grain that originates that way.

Mr. Chartrand: I wish it would be made clear. You are thinking of a figure including grain, and his answers are going to a type of traffic from which grain is excluded.

Mr. Dwinell: I was asking my question because I had taken a figure finally of 250,000 total traffic, which included grain and everything else.

Mr. Chartrand: But his answers are not responsive to that.

Mr. Dwinell: All right.

By Mr. Dwinell:

Q. Let me see if I understand. The equivalent of 450,000 carloads of traffic, does that include any grain?

[fol. 3498] A. Of course it includes grain, because our total of 250,000 cars, as I said that would originate here

when everything was finished, all around the lake, naturally included the two elevators you have now, with any possible extension to the third one; certainly.

Q. Then your 450,000 does include grain.

A. Of course it does; certainly, but not locally in Chicago.

Q. No. In other words, you figure there will be 100,000 railroad cars in Chicago, the equivalent of 100,000 rail cars in Chicago, and 250,000 cars outside of Chicago, including grain.

A. No, sir, I never said that at all, sir. I said there would be 250,000 cars in and out of Chicago, sir.

Q. Yes, to and from.

A. That is in and out of Chicago, the whole lock, stock, and barrel is 250,000 cars of rail business.

Q. Including what—

A. Chicago business, that is right.

Q. Including Chicago.

A. Chicago switching business, yes, sir. You asked me that question, and I answered that.

Q. Let me see if I can get it straight. You said there would be 250,000 cars of railroad freight.

A. That is right.

[fol. 3499] Q. In railroad cars.

A. That is right, in and out; that is right.

Q. Of those 100,000 would be intracity and 150,000 would be in and out of the city.

A. That is about right, yes.

Q. Then you said that there would be another 100,000 of truck traffic equivalent to 100,000 railroad cars within the city.

A. I still think that is the potential when the whole thing is finished, yes, sir.

Q. Then there will be 150,000 cars, rail cars, of traffic to and from, and there will be 100,000, the equivalent of 100,000 rail cars, in trucks to and from the city.

Mr. O'Brien: He said one-third.

The Witness: I never said that. I said there would be one-third as many cars going out by trucks into the hinterlands.

By Mr. Dwinell:

Q. That would be 50,000.

A. Approximately 50,000 cars, yes.

Q. So the figure is 200,000, equivalent of 200,000 of rail traffic—of traffic equivalent to 200,000 cars in and out of Chicago, truck and rail.

A. That is about right, yes.

Q. So the total traffic in Chicago, out of Chicago, by rail and by truck, would be equivalent to 400,000 railroad freight cars.

[fol. 3500] A. More or less, yes.

Q. Or less.

A. That is combining all forms, yes.

Q. That includes every commodity.

A. That is right.

Q. Grain and everything else.

A. The whole lock, stock, and barrel, yes.

Mr. Dwinell: Are we straight, Mr. Chartrand?

Mr. Chartrand: Yes, sir.

Mr. Dwinell: All right.

By Mr. Dwinell:

Q. One of the imponderables in your calculation is the amount of business which moves through the St. Lawrence Waterway, is that not a fact?

A. There was never an imponderable with me, because I have been trying to explain consistently all day, you see, that the whole concept of this 2,000 acre development now has gone beyond the seaway, that it is truly a transportation center with our rights now to lease land for industry and commercial, that the seaway is important, it is true, you understand, but it isn't the whole deciding factor in this particular development.

Q. That is right. We understand that.

A. If you want to say the seaway is an imponderable, yes, I will say to you it is an imponderable, just like anything else is an imponderable.

[fol. 3501] Q. One of the questions which is going to have a bearing upon the amount of business that will move through the seaway is the amount of the toll, is it not?

A. Are you asking me this question? The answer obviously is yes.

Q. And according to the Tribune this morning you sent a wire yesterday saying to somebody that the toll should be kept at some low level.

A. I didn't send any such wire at all. I was one of many people in Chicago that sent wires to the President of the United States stating that we felt the best interests of the seaway would be served if the Seaway Corporation remained under the control of the Department of Defense rather than the Department of Commerce.

Q. That was the one that you sent.

A. Yes, sir.

Q. I beg your pardon.

A. That is all right.

Q. Have you elsewhere and at other times taken the position that the seaway toll should be kept at a low level?

A. I have, sir; yes, sir.

Q. And where they are finally put will be a factor, will it not?

A. Decidedly so, yes.

Q. Do I understand this as being one of your positions, [fol. 3502] that more than one railroad will of itself, having more than one railroad in, just that simple fact, that you would have, if these applications were granted, more than one railroad in, would in and of itself be of benefit and improve conditions over what they otherwise would be?

A. We believe so.

Q. As I get it, your reasons for making that statement are the ones that I went over with you a little while ago,

that you would get a reduction in the one and two-line haul rates—

A. Yes.

Q. —so if you would get those—

Mr. O'Brien: He didn't say rates; he was talking about service.

Exam. Albus: The record will show what he said, three or four times.

By Mr. Dwinell:

Q. Weren't you talking about the fact that you have some switching rates here?

A. I said that contact with more than one railroad would give us greater availability of one and two-line switches rather than three-line switches as we have at the moment.

Q. What do you mean by one and two-line switches?

A. If a car originates on the IHB or Belt Railway of Chicago, it could be delivered to the Harbor on a one-line haul.

Q. One-line rate.

[fol. 3503] A. Certainly.

Q. Rate.

Mr. O'Brien: He talked about switching service, rates and service both; primarily it is service he is interested in.

By Mr. Dwinell:

Q. The second thing—is it primarily service you are thinking about, and the rates are secondary?

A. We are thinking about both of them.

Q. As he said, rates are secondary?

A. I wouldn't say it is secondary. We constitute one with the same equality as the other; first, that we wanted more single line rates and more two-line rates, and the service with it.

Q. The second thing, you think that if you would have more than one railroad, you would have your car supply bettered.

A. We think so, yes.

Q. Third, this morning, if one railroad was on strike, you wouldn't get—stand the possibility of being hurt.

A. That is right; that is true, yes.

Q. I am sure not going to cross examine you on that one. That will come out later why. You had the feeling that there should be no monopoly because you were a public municipality.

A. Any more than there is a monopoly on our elevators or sheds or transit facilities or anything else.

[fol. 3504] Q. Yes, no one railroad should have a monopoly.

A. That is right.

Q. And finally you added as a number six this afternoon that if you had a number of railroads in there, they would be competing against each other, and competition would in and of itself improve service.

A. We think so, yes.

Q. So that if you have more than one railroad in, your industries, your facilities, your operators, your operation, will be on a better basis than they would be if they had the operation of only one railroad.

A. We think we would get better service, yes.

Q. I was combining all of those things.

What is the plan of operation of these applicant railroads? What are they going to do? How are they going to serve your port?

Mr. O'Brien: I submit that the applicants will be glad to show what that plan is when they approach the stand.

Exam. Albus: If the witness knows, he may answer. Have you talked to them about how—

The Witness: Yes. As I understand it, if they are able to come in, and we hope the Rock Island will come in with them and everybody else, that some certain railroad—whether the Rock Island or Nickel Plate or IC, whatever it is—are chosen to perform switching service for account [fol. 3505] of all of them, on some sort of pro rata basis. I don't know the exact details of the plan. I am not suffi-

ciently conversant with those operating things, but in principle this is the understanding I have.

Mr. O'Brien: We will have a witness, Mr. Examiner, who will go into that in greater detail.

Mr. Broker: May I interrupt? Is that the plan of the applicants, having one railroad switch all of this?

Mr. O'Brien: I said we would have a witness to testify to that.

Mr. Broker: To that effect?

Mr. O'Brien: As to the details of it.

Mr. Broker: Is that the general plan, one railroad would switch the whole area?

Exam. Albus: That is the way Mr. Cohen understands it.

Mr. Broker: I don't see why the applicants can't tell us right now.

Mr. Bierma: To be operated as a joint facility, and all the railroads can participate in that joint facility.

Mr. Wright: Just in the district, you understand.

Exam. Albus: We will get some testimony on that.

Mr. Bierma: We will cover it in detail.

By Mr. Dwinell:

Q. The statement that you made as to what your understanding was was the statement upon which you have based your conclusion as to the advisability of the applicants [fol. 3506] being successful, is that right, Mr. Cohen?

A. If the applicants are successful, we presume that they will come before the Board with a plan of operating these facilities that will be agreeable to the Port District, and incidentally, to its tenants. If that plan involves the switching of one railroad, it will be one railroad for the account of everybody. If it involves two railroads switching, it will be so. We don't know exactly what that will be yet.

Q. What I am trying to find out is when you say service will be improved if the applicants get in, you do not know what the plan of operation will be.

A. We think the service will be improved, yes.

Q. Without knowing exactly what the plan will be.

A. Yes; we still think it will be improved, sir.

Q. All right. You are going to have in this facility warehouses.

A. That is right.

Q. You are going to have elevators.

A. Yes, sir.

Q. You are going to have transit sheds; you are going to have a lot of things.

A. Yes.

Q. Let us take the elevators. You are going to have two elevators which are going to handle export, import, and domestic business of all kinds in and out, by land and water, [fol. 3507] are they not?

A. Yes, sir.

Q. And particularly in the wintertime they will go out by land, can't go out by water.

A. Not only in the wintertime, but through the whole season, because I want again to impress upon you that these elevators were not designed to be exclusive export houses. We expect that they will do a substantial land interchange the whole year around.

Q. For the handling of all business, in and out by rail, you want these elevators to have the advantage of more than one line railroad service?

A. Yes; we think it will aid and facilitate the movement of traffic; yes, sir.

Q. Likewise, as to your other facilities, warehouses, and whatever else there may be, you want them to have the advantage of railroad facilities, of more than one railroad and have the advantages which that will give.

A. Yes, sir.

Q. And you want the Interstate Commerce Commission to authorize such.

A. I think, Mr. Dwinell, the resolution that I read this morning is explanatory of the Board's attitude in connection with railroad service in the harbor. I don't see how I can add anything to it, sir.

[fol. 3508] Q. There are in the City of Chicago other elevators, are there not?

A. Yes, sir.

Q. With the service of one railroad.

A. Yes, sir.

Q. You want your elevators, by order of the Interstate Commerce Commission, to have advantages which these other elevators do not have.

A. We didn't know that that was the case. We just want our elevators to have more than one railroad serving them.

Q. Don't you know that the other elevators are served by one railroad?

A. I don't know that, sir.

Q. Well, let's take the North Western elevator on the river. Are you acquainted with that property?

A. In general.

Q. It is served by the North Western Railroad, isn't it?

A. I don't know, sir.

Q. Do you know the Rock Island elevator over on the river which is now occupied by Dreyfuss?

A. Yes, sir.

Q. Is that served by any other railroad?

A. No, sir.

Q. There are other elevators along the river which are served by only one railroad, aren't there?

[fol. 3509] A. I don't know, sir.

Q. But if there are other elevators served by one railroad, you want yours to have the advantage, is that right?

A. We want our elevators to have as many roads serving them as is possible.

Q. Let's take your warehouses. There are warehouses in the City of Chicago which are served by one railroad only, aren't there?

A. Yes, sir.

Q. But you think that your people are entitled to better service than they get?

A. Yes, sir.

Q. There are other industries which will be competing with those you have, and you want yours to have better service than they have.

A. We want our industries to have the best possible service.

Q. That's right. Then was I wrong at the very beginning of our conversation, when we talked about equal treatment, opportunity to compete, equality of opportunity, you want a little more, don't you?

A. We want, Mr. Dwinell, all the service that is possible to secure for public facilities of this nature, and if that means more than one railroad, that is what we want, sir, and if that offers our particular tenants an advantage, [fol. 3510] we want that, sir. We believe that it is essential for the proper over-all development of the property.

Mr. Dwinell: That is all.

Exam. Albus: Do you have any cross examination, Mr. Broker?

Mr. Broker: Yes, sir.

Exam. Albus: We will take a ten-minute recess.

(Short recess.)

Exam. Albus: The hearing will please come to order.

We will continue with the cross examination of Mr. Cohen. Mr. Broker, please.

Mr. Broker: Yes, sir.

By Mr. Broker:

Q. Mr. Cohen, on your Exhibit H-2 I see only the tracks of two or possibly three railroads, on the northeast corner of the lake, the Nickel Plate, is that right?

A. That is the Nickel Plate track you are pointing to, yes, sir.

Q. On the northeast corner.

A. That is right.

Q. Then there is the Rock Island-Pullman at the southwest corner coming in by means of an overpass, is that right, to connect with the Port District Railroad?

A. That is right.

Q. Does this map also show at the northwest corner an overhead crossing by the Rock Island coming in to connect [fol. 3511] with the Port District tracks?

A. That is a potential crossing, yes. That is not there now.

Q. Except then for those two railroads and the Port District tracks, no other railroad is shown, is that right?

A. For the time being, yes, sir.

Q. You are the owner of the tracks at the Port District, the Chicago Regional Port District?

A. Yes, sir; yes, sir.

Q. What was your authority to construct those tracks, Mr. Cohen?

A. What was our authority to construct them?

Q. Yes.

A. We had to build railroad tracks in the harbor so the facilities could be served.

Q. You don't have any authority from the Interstate Commerce Commission.

A. No, sir.

Q. You do not, right?

A. No, sir.

Q. I am just trying to get a little description on the record now. About this Lake Calumet, would you describe its average depth north of your stage 1 or plan 1 development which includes the turning basin and the elevators up to slip 1? What is the average depth of the lake north of that?

[fol. 3512] A. About 18 inches to 2 feet, sir.

Q. You haven't yet made application to the Corps of Engineers, have you, for the dredging?

A. Not for the entire thing, no, sir. We are only making application for the lower end I told you about.

Q. Who will dredge the lake, you or the Corps of Engineers?

A. We will.

Q. At your expense.

A. Either at our expense or tenants' expense, yes.

Q. Not at government expense.

A. That's right.

Q. Your present railroad service is from the Rock Island.

A. Yes, sir.

Q. Does that switch in cars today for the Pennsylvania, Illinois Central, and the rest of the applicants?

A. Switches cars for everybody.

Q. It does today.

A. Yes.

Q. You referred in your testimony to a resolution of the board of directors of your organization. What was the date of that resolution again, please?

A. January 25, 1954.

Q. You say that is the philosophy—represents the philosophy of the Board.

A. Yes.

[fol. 3513] Q. Your circular to the public was dated September 1, 1955 when you sold your bonds, isn't that right?

A. That is right.

Q. No reference to the philosophy in there, is there?

A. No, sir.

Q. In fact, that represents that the service will be given, at least on the west side, by the Rock Island.

A. Yes, sir.

Q. And the map in that circular and the pictorial representation also show that only the Rock Island would serve these facilities, isn't that right?

A. They showed them as the only one at that time, yes, sir.

Q. You will have, as I understand it, if these applications are approved, five or six railroads running in and out of your property, won't you, with their own motive power?

A. Unless they get together and agree on some one company or two doing the switching.

Q. Doesn't their application state that they will operate individually to serve the area?

A. I don't know that, sir.

Q. Do you favor having six railroads running in and out with their own power?

A. We favor having as many railroads as is possible serving the Port District.

Q. With their own power individually?

[fol. 3514] A. Well, we would rather have it served—that is, we would rather have the service by one or two railroads.

Q. You prefer then to have the motive power—one set of motive power under one management, shall we say, or unified control, serving the area, is that right?

A. Yes, sir.

Q. That would include the approach tracks that are proposed to be constructed, is that right?

A. I don't know what you mean by "approach tracks," sir.

Q. The lead that would run off the Kensington and Eastern which the Kensington and Eastern, Illinois Central, and Pennsylvania propose to operate.

A. I can't speak for them. I can only speak for the service inside the harbor. How it is going to be done away from the harbor I can't answer.

Q. Aren't you aware a portion of that construction is inside the harbor?

A. No, sir; it isn't.

Q. Aren't you aware that the application of the Belt indicates that it will only operate by means of so-called trackage rights up to the Belt boundary? Are you aware of that?

A. No, sir.

Q. Are you aware that the New York Central's application indicates that it will operate to the east end of the [fol. 3515] back-up warehouse?

A. No, sir.

Q. Are you aware that the Pennsylvania Railroad goes beyond that to the west?

A. No, sir.

Q. Then you are not supporting, am I correct, the construction by these applicants of any tracks on your property? Is that right?

A. We are supporting the construction of tracks on our property that will connect with ours to only place I know of, and that is in the area which is back of the warehouse where it has physical contact with Calumet Harbor property.

Q. Are you in favor of all the applicants running over that connection up to that point and back of the back-up warehouse?

A. We haven't any objections to it.

Q. Yet as I understood you earlier, you said you would prefer to have one set of motive power only on your property, is that right?

A. We felt that perhaps it would be better to have one or two lines serve rather than six or seven of them switching.

Q. I see. You are supporting both the construction of the line by the New York Central and the construction by the Illinois Central and the Pennsylvania, are you not?

A. We are supporting more service in the harbor, sir.

Q. Let us be specific. Aren't you supporting the con- [fol. 3516] struction by the New York Central of its own track, let's say, out of the Michigan Central yard right direct to the Port District?

A. Mr. Broker, we are supporting more service in the harbor. How they are going to get over there is for the Commission to decide.

Q. As I understood it, you supported their finance docket specifically.

A. If this is the method by which they come over, we support it, that is all.

Q. You also support the other method of constructing of the Kensington and Eastern.

A. Yes, sir.

Q. You support both applications.

A. That is right.

Q. Don't you think it a bit strange that some of the applicants themselves oppose the Michigan Central and yet you are supporting them?

A. I can only go back, Mr. Broker, to my orders from the Board that my responsibility and duty is to foster as much railroad service as is possible and any and all of them that are accessible.

Mr. Bierma: I am a little confused. How is opposing—

Mr. Broker: Michigan Central filed a petition to intervene in opposition to the New York Central's application. [fol. 3517] Mr. O'Brien: Not in opposition, no. We intervened.

Mr. Broker: How about the South Shore?

Mr. Wright: No.

Mr. Olson: Intervened, but no opposition.

Mr. Broker: Let the record stand on that one.

Exam. Albus: Next question.

By Mr. Broker:

Q. This proposed track that the Kensington—the Illinois Central and the Pennsylvania would build, that is not in existence today, is it?

A. No, sir.

Q. Would you say then that it is now owned or operated by any common carrier?

A. In this particular track?

Q. That is proposed to be constructed.

A. The track isn't in existence yet, sir.

Q. So it can't be owned or operated, can it?

A. No, sir.

Q. I am interested in your reference to a belt railroad. You indicated, I believe, that the port would own a belt railroad in the vicinity of the lake, is that right?

A. Mr. Broker, I go back to 37 years ago when the original plan showed a Lake Calumet Harbor Belt Line. Now

it has always been the belief of the Board that such a line would ultimately have to be in operation. This particular thing, of course, if it is worked out, will obviate the neces- [fol. 3518] sity of the Port District building such a belt line around the lake.

Q. Who would own the track to be built around the lake?

A. Sir?

Q. Who would own that track to be built—

A. The consortium of railroads, or we might own it and build it and lease it back to them.

Q. I see. When would you think that the track which is proposed there would ripen into such a belt railroad?

A. I think within the period of seven to ten years that the tracks around the entire harbor will be built and developed.

Q. And do you envision that the railroads that connect up with that so-called belt railroad will operate that power all around the lake?

A. Yes, sir.

Q. Are you advocating an independent belt railroad around the lake?

A. No, sir.

Q. You said this was comparable to a situation in Hamburg, Germany, is that right?

A. No, you go back again quoting me out of context. I said the layout of this particular harbor resembled a setup in Hamburg, where I worked for some years, handling ships. By that I meant simply the projection of these huge land areas into the water, feeding out of a central [fol. 3519] anchorage basis and then slips.

Q. You weren't talking about railroad—

A. No, sir. I am familiar with that fact, that that railroad is owned by the State of Germany.

Q. Monopolistic, in other words.

A. Yes, sir. It is a state railroad.

Q. Is phase 1 of your construction now complete?

A. Yes, sir.

Q. And that consists then of the facilities that are now on the ground, right?

A. Yes, sir.

Q. Are any of those facilities that are on the ground a part of phase 2?

A. No, sir.

Q. When do you propose to start your phase 2?

A. We hope, as I stated before, that number 2 will be in motion within a year.

Q. Does that mean issuing the circular for the sale of bonds?

A. No, sir; I didn't say that, Mr. Broker. All I stated was that number 2 would be in motion. How we will do it will depend on our own attitude and the manner in which we can arrange it.

Q. I think if you could refer to Exhibit H-1, could you indicate generally on that what phase 2 would consist of? [fol. 3520] Am I right in thinking that it includes the construction of slip number 2 up to but not including slip number 4?

A. Yes, sir.

Q. And on the west side, that includes slip number 3?

A. Yes, sir.

Q. And number 5?

A. No, sir.

Q. All right. So then it would be 2, 3, up to 4 and 5.

A. Yes. The land areas, yes.

Q. With an adequate turning basin in the middle.

A. No, sir. The basin itself is wide enough for turning. It is a thousand feet in width.

Q. When do you think phase 2 might be completed?

A. I am in hopes that it will be finished within two years, sir.

Q. That would be—

A. By 1959 or 1960 at the latest. You must remember we have to make land, and you have the possibility of waiting a little while before you can build on it.

Q. What is the depth of the lake now at the—well, what is the working depth of the lake as it has been developed?

A. Twenty-three feet.

Q. What is the depth of the river?

A. The river is 21 to 23 feet, sir.

Q. What are the size of the ships that navigate that [fol. 3521] channel, that river and lake, today? What is their depth?

A. We have had ships that go to 540 feet. Some of them have taken 21 feet.

Q. Are they ocean-going vessels?

A. No, sir. They are lake vessels. The smaller ones, of course, are ocean vessels, but they are only 250 feet.

Q. What do they draw?

A. They draw 14 feet.

Q. What is the maximum depth in the Welland Canal, do you know?

A. Twenty-seven feet, sir.

Q. For all ships?

A. Sir?

Q. Twenty-seven feet for all ships?

A. We only have 27 feet in the Welland Canal, that is all. That means a ship, for your information, can only load to 24 or 25 feet, because it must have a foot and a half to two feet under its bottom.

Q. This dredging you would conduct under phase 2, what would be the depth there?

A. We are going to 27 feet.

Q. It would still be governed by the depth of the river, is that right?

A. Well, obviously, until we get 27 feet, but we figure we better dredge to 27 feet and get through with it.

[fol. 3522] Q. Could you tell me the volume in tonnage of grain and of general commodities—by that I mean anything other than grain—handled through the Port District in 1955?

A. I did not.

Q. I say can you?

A. No, sir.

Q. How about 1956?

A. Nothing to speak about, because we were constructing facilities.

Q. How about 1957?

A. We can when the year is finished, sir.

Q. When will that be?

A. January 1.

Q. I am talking about your navigational year.

A. About December 1, and you generally have to wait 60 days before you get your figures from tenants.

Q. Do I understand that the only limitation on the reaching of these potentials is your credit?

A. No, sir. I made it very plain to you this morning that our ability to finance these further things would be one factor, but it was not the controlling factor, that under the change of our law we have flexibility now so these things could be handled on leasehold arrangements.

Q. I think you testified this morning that you planned to put up a third elevator, is that right?

[fol. 3523] A. I told you that we had high hopes for a third elevator. We had it included in the first phase.

Q. Why was it not completed?

A. Because I wasn't a good enough salesman, Mr. Broker; I couldn't sell it.

Q. I think you testified that at present you can accommodate twelve 250 ships?

A. About that, yes, sir.

Q. How many have you had in at one time?

A. I think the most we have ever had in is about five, sir.

Q. How often has that been?

A. I can't tell you.

Q. Do you know how many ships you have had so far this year?

A. No, sir.

Q. Have you considered the effect on your traffic of the proposed port to be constructed at the mouth of the Chicago River?

A. I haven't paid any attention to it, Mr. Broker.

Q. You have not considered then whether it has been in competition with you or would be in competition?

A. That is right.

Q. What about other ports like Milwaukee?

A. They will certainly be in competition, so will Burns Ditch, and so will the downtown area, but if we are going to be concerned with all the competition, that is one thing. [fol. 3524] I have told you very definitely that we are trying to build completely integrated facilities where we can handle everything from a package of needles to an elephant.

Q. Will their ability to compete affect this traffic potential that you—

A. We don't think so for us, no, sir.

Q. That would be true of Toledo?

A. That is right.

Q. Cleveland?

A. That is right; the figures that I have quoted, sir.

Q. You gave truck and rail traffic, but you didn't talk about all-water traffic, lake to lake or barge to lake or barge to barge. Could you give us a figure on that?

A. All I can say is that we are working on several movements. These are special things. I am in no position to give you any estimate at the moment. I think we will have a substantial interchange of direct water business. This is the only answer I can give you at the moment.

Q. I thought I heard you say this morning that the barge movement might be greater than the lake movement.

A. That is right, but I didn't say that that was going to go out by lake. I only said the potentialities of the barge business for industry, warehousing, and transfer were very substantial.

Q. Then you couldn't add any number of cars, let's say, [fol. 3525] of the 400,000 you estimated earlier, is that right?

A. No, sir. I put that in there because I equated in it a normal barge business that I thought we would do.

Q. How much of the 400,000 cars would have a water movement?

A. I can't tell you, sir, because I tried to make very clear this is a transportation center where all types of commerce would be handled.

Q. You can't tell how much is truck to truck.

A. No, sir.

Q. Or rail to rail.

A. No, sir.

Q. Or rail to truck.

A. No, sir.

Q. Can you tell how much is going to move by the St. Lawrence Seaway in its entirety in a year?

A. Mr. Broker, you are beginning to talk now about a mass of figures that are highly controversial, and as Mr. Dwinell said, imponderable. All I can do is go back to the figures that I quoted you as to what our potentials would be when we have the next slip, and which I told you that I thought we would handle approximately 800,000 tons of general cargo. I don't think I want to go beyond that at the moment, sir, and that, I also want to tell you, is much less than what I have quoted before as the potentials for Chicago.

Q. You went through this bit by bit, but I don't recall [fol. 3526] any breakdown by years, for instance. Did you have a figure—I want the equivalent now, if you have it, in railroad cars for, let's say, 1959?

A. I told you from 1957 to 1958 I thought we would average 27,000 cars a year, and from 1959 to 1962 with the present facilities, as well as the new ones that will be constructed, that we would have a potential of 77,500 cars by 1962.

Q. Let us go beyond 1962.

A. By 1968 I told you I thought we could pick that up by at least 50 per cent, and then I went beyond that. I said when the entire development was completed on both sides of the lake—and by that I mean all the slips for commerce and industry—that we would have approximately 250,000 cars.

Q. That is railroad cars.

A. That is right.

Q. What is total traffic?

A. I quoted those figures before. On trucks, stuff like that, the record will show it.

Q. You went up to 400,000. I want to take that through by years.

A. I can't spell that out for you that way. I can only spell it out in general figures as I gave it to Mr. Dwinell.

Q. That breakdown from 27,000 up to 250,000 is just the rail cars, right?

A. That is right.

[fol. 3527] Q. You have an end result when the entire development is completed of 400,000, not excluding water traffic, right?

A. That includes truck and rail, yes.

Q. Do you have the working papers available on those estimates?

A. I have them here in notes that you are welcome to, but they are notes I have put together over the weekend myself.

Q. I mean, are they broken down in any way so that I can evaluate them?

A. No, sir. I would be happy to give them to you, though, for what they are.

Q. Those notes are for your own purposes in testifying, is that right?

A. That is right, yes, sir.

Mr. Broker: I have no other questions. Thank you.

Exam. Albus: Any further cross examination?

(No response.)

Exam. Albus: Any redirect?

Redirect examination.

By Mr. Chartrand:

Q. Alluding to some of the questions of Mr. Dwinell, you stated that the Chicago Region Port District as such was not interested in shipping. That is right, is it not?

A. That is right. We control no shipping or the routing of any shipping.

[fol. 3528] Q. Does not the Illinois statute provide that in the event a lease is broken or a tenant fails to fulfill the term of his lease, whether it be an elevator or shed, that the Chicago Region Port District has power to go in and operate the facility until another tenant is found?

A. For 60-day periods, and then we have to advertise it for public bid, yes, sir.

Q. In so far as the geographical advantage of Chicago is concerned, does that stem mainly because of the lower combination of land and water transportation costs that might accrue from reshipping through the Port of Chicago rather than the north Atlantic ports?

A. I would say this is one of the great advantages that we will have, yes.

Q. Therefore, if the combination land and water costs from western Ohio and Indiana and northern Kentucky through the Port of Chicago is lower than through the north Atlantic ports, would it not follow that the move of general commodities would flow to the Port of Chicago?

A. There would be some, yes, sir.

Q. Without regard to what the eastern railroads thought?

A. That is exactly right, yes, sir.

Q. In so far as the imponderable of tolls is concerned, will not Canada have a great deal to say with regard to the level of the tolls that will be collected?

[fol. 3529] A. It is my opinion that Canada will have the deciding voice as to the exaction of what tolls will be made through the seaway.

Q. Is not grain Canada's number one commodity on the seaway?

A. Yes, sir.

Q. Would it not follow that they would see that they would be workable tolls in so far as the movement of grain on the seaway is concerned?

A. I think so.

Q. Mr. Cohen, in your supporting these several applications, is it under the assumption that there will be no greater cost in any manner or form of the handling of cars into the Chicago Regional Port District by these applicants than presently arise out of service performed by the Rock Island?

A. Definitely.

Q. With regard to your selfish interest of requiring more service or more rail lines into your facilities at the port as compared to warehouses located elsewhere in Chicago or elevators located elsewhere in Chicago, does this stem from the fact that the other elevators and the other warehouses may and are primarily private houses, whereas the facilities that you lease within the Port District are public warehouses open to all?

A. Certainly it is because they are public warehouses, and also because there are more than one.

[fol. 3530] Q. Then there is a distinction to be made with regard to the requirements of the public sheds and public elevators within the Port District as compared to private industries located elsewhere served by one railroad.

A. That is right, sure. You will have more than one elevator, more than one warehouse, more than one shed. You will have more than one of everything.

Q. Of course, but they are serving the public as a whole—

A. That is right.

Q. —and not the requirements of a single industry.

A. Yes, sir.

Q. Would it follow, Mr. Cohen, that if five or six railroads served your port directly, and if that was not a satisfactory arrangement, that it might hasten action on the part of the Port Authority to establish and create this port switching arrangement that you contemplate seven to ten years from today?

A. I think it would have an effect on the attitude of the Port District, certainly.

Mr. Chartrand: Thank you.

Exam. Albus: Any further questions of Mr. Cohen?

Mr. Broker: I have a question in the light of what was just asked.

Recross examination.

By Mr. Broker:

Q. You are not suggesting that these individual railroads [fol. 3531] don't hold themselves out to serve the public, do you?

A. No, sir; no, sir.

Exam. Albus: Anything further?

Mr. Dwinell: Just one question.

Exam. Albus: Mr. Dwinell, please.

By Mr. Dwinell:

Q. The territory in western Ohio is not too far from Toledo, is it?

A. That is right.

Q. Detroit, and Cleveland?

A. I would say yes, all those points are competitive.

Q. If the combination of the rail rate to Chicago and boat out of Chicago was greater than the rail rate to Toledo or Cleveland and thence by boat, traffic would not move to Chicago all other things being equal, would it?

A. No, sir, no.

Q. It would move through those other points.

A. It might and might not.

Q. All other things being equal.

A. I think I should explain that. I think you are jumping to a conclusion. I think you should understand that in the operation of ships especially—and of this I speak from some very, very long and bitter experience—it is nothing unusual for a ship owner to make a rate, for instance, out of a place like Chicago as low as he would out of Toledo, [fol. 3532] even though the haul is much shorter and sometimes make it for less so he gets better access to a type of cargo he can handle more expeditiously to himself here. Let me explain: With the bulk facilities that we have here, if we have a commodity which will fit as both a minimum cargo in the vessel—and I am sincere when I say that has to be a big part of it—the ship owner is here and has his cargo cleaned out, he may make rates out of Chicago much less than out of Toledo simply to take care of the advantages he has here so he can load the cargo.

Q. The point Mr. Chartrand was making, that if the rate from western Ohio to Chicago and then by boat was less than rail to New York and boat, it would move here.

A. That is right.

Q. I am just asking you if the logical movement under those conditions wouldn't be rail to Toledo or Detroit or—

A. Not always, sir.

Q. I said all other things being equal.

A. Well, it depends upon the cargo, sir.

Exam. Albus: Anything further? You are excused, Mr. Cohen.

(Witness excused.)

Exam. Albus: Next witness, please.

Mr. O'Brien: Mr. Examiner, what time—

Exam. Albus: Off the record a minute.

[fol. 3533] (Discussion off the record.)

Mr. Wright: Mr. Johnston will take the stand.

WAYNE A. JOHNSTON was sworn and testified as follows:

Direct examination.

By Mr. Wright:

Q. Please state your full name?
A. Wayne A. Johnston.
Q. Where do you live?
A. Flossmoor, Illinois.
Q. With what railroad are you connected at the present time?
A. Illinois Central Railroad Company.
Q. In what capacity?
A. President.
Q. How long have you been president of the Illinois Central?
A. Thirteen years.
Q. How long have you been railroading?
A. Thirty-eight.
Q. All of that time has been with what railroad?
A. Illinois Central.
Q. Are you familiar with this proceeding?
A. I am.
Q. Have you a prepared statement?
A. I do.
Q. Would you proceed to make that statement?
A. The Illinois Central serves 14 states, with its main [fol. 3534] line extending from the shores of Lake Michigan to the Gulf of Mexico. Our system map—Exhibit H-8—illustrates the large geographic coverage of the Illinois Central System.

As you can see from the map, we deliver cars into the Chicago industrial district from New Orleans, Baton Rouge, and Shreveport, Louisiana, Jackson and Meridian, Mississippi, Birmingham, Alabama, Memphis, Tennessee, Calvert City and Louisville, Kentucky, all large southern, industrial, agricultural, and manufacturing centers, and from such Midwest commercial centers as Indianapolis,

Indiana, St. Louis, Missouri, Decatur, Peoria, and Rockford, Illinois, Madison, Wisconsin, Dubuque, Cedar Rapids, Waterloo, and Sioux City, Iowa, Omaha, Nebraska, Albert Lea, Minnesota, and Sioux Falls, South Dakota. Most of these cities are large interchange points, and we receive from and deliver to our connections a substantial volume of traffic.

Lake Calumet Harbor is a part of the Calumet District, which we have served for over 100 years, affording a direct connection with the southeast, south, southwest, west, and northwest. Michigan Central was the first railroad to build into what is now the harbor area. In 1852, it constructed a line extending from the Indiana-Illinois State Line to Kensington, which line was used to serve the Swift and Knickerbocker ice houses then located west of Lake Calumet in the vicinity north of 127th Street.

(Exhibit No. H-8, Witness Johnston, was marked for identification.)

[fol. 3535] The Witness: In 1909, the Illinois Central, through the Kensington and Eastern Railroad Company, a wholly-owned subsidiary of the Illinois Central, completed construction of a line of railroad eastward to the Illinois-Indiana state line and initiated service to the Knickerbocker and Swift plants. In the same year, Pullman Railroad extended its service to 126th Street and joined in serving Knickerbocker and later, in 1915, further extended its line to serve the Swift Company. Diminishing revenues, which ultimately led to the closing and demolition of the ice plants, prompted the discontinuance of service by all roads, Pullman being the last to remove its rails in 1934. The Illinois Central, however, through its contract with the Kensington & Eastern, reserved the right to re-lay such tracks should the need again arise in the future.

The Illinois Central for many years has been interested in the development of the region served by it at the south end of Lake Calumet. A survey was made in 1943 by this company, and commitments were made by two interests to

locate in the area. The Illinois Central also sought the cooperation of the City of Chicago, the Department of Public Works and Buildings, Division of Highways. Our industrialization plans included the construction of facilities for transferring coal from railroad cars to lake vessels, and I might add that in 1947 the Illinois Central transported [fol. 3536] over 75 per cent of the lake-cargo coal handled through Chicago.

In 1946, I was approached by certain officials of Pullman, who offered to sell the Pullman Railroad to the Illinois Central. We declined to buy but were interested in seeing the railroad taken over by the Belt Railway of Chicago.

On March 20, 1947, the Illinois Central and the Kensington & Eastern filed a joint application with the Illinois Commerce Commission, seeking permission to construct a spur track at grade across the tracks of the Pullman Railroad and Doty Avenue so we could again re-establish our trackage to the old dock area of Lake Calumet. Authority to cross the Pullman and Doty Avenue was granted by an order of the Illinois Commerce Commission on March 28, 1950.

In the meantime, during the pendency of this case, the Rock Island applied, on September 1, 1948, to the Interstate Commerce Commission for authority to acquire control of the Pullman Railroad. As the record will show, the Illinois Central, one of the interveners in the case, stated that, although the proposed acquisition of Pullman by the Rock Island had not been shown to be in the public interest, it would not oppose the Rock Island's acquiring control of Pullman Railroad if the authorization was made subject to the condition that the Rock Island would tender the Illinois Central the option to acquire the line and land of the Pullman Railroad south of a point in the vicinity of 124th [fol. 3537] Street, upon fair and reasonable terms, subject to the approval of the Commission.

The Interstate Commerce Commission denied our request but, in authorizing the purchase of the Pullman Railroad by the Rock Island, stated:

"Affirmative action herein does not necessarily mean that one or more of the interveners would be precluded from establishing consistency with the public interest if a similar application in their behalf were pending before us."

The Supreme Court of Illinois sustained an order of the Circuit Court of Cook County which had found the order of the Illinois Commission to be unlawful, finding the proposed spur to be an extension of our line.

• • • • • • •

[fol. 3540] The Witness: In no sense is there involved here the invasion of what might be considered a new territory or the exclusive territory of any other railroad or railroads by the Illinois Central. A glance at any of the maps prepared for this proceeding will show the main line of the Illinois Central adjacent to the Port District and, until 1950, except for the Michigan Central, it was the only other major trunk line in the immediate vicinity of the port.

I wish to make this point clear, that we on the Illinois Central are striving to eliminate delays since delays in terminals and interchange operations have, in my opinion, caused more diversions of traffic to the motor carriers than any other single factor. In my opinion, the Illinois Central's entrance in Lake Calumet Harbor would greatly expedite the movement of cars and provide a definite safeguard against congestion. The operating agreement within the port of the applicants herein will insure an even flow of traffic to and from and within the port. Another witness will describe this in greater detail.

We feel equally as strong about the other applicants in [fol. 3541] this proceeding, if for no other reason than their entrance into the harbor would afford either direct line or a single interchange service from the port to the major cities in the United States.

With this objective in mind, the Illinois Central Railroad has entered into an agreement granting the Pennsylvania Railroad bridge rights over our main line railroad between the junction with the Belt Railroad tracks at 95th Street,

Chicago, or the junction with the Pennsylvania tracks in the vicinity of Riverdale, and junction with the Kensington & Eastern tracks near Kensington.

The Illinois Central, South Shore, and Kensington & Eastern have entered into an agreement allowing the Pennsylvania bridge rights over the tracks of the K&E between Kensington and a point immediately west of the Calumet River. The Illinois Central has also entered into agreements granting the Pennsylvania and South Shore bridge rights over the tracks which it proposes to construct between the junction with the K&E tracks and the junction with the tracks of Pennsylvania, immediately west of the Calumet River, in the vicinity of 130th Street.

All of these agreements, which will be explained in greater detail by witnesses to follow, are for the purpose of allowing the Pennsylvania to reach its property immediately west of the Calumet River and for the Pennsyl- [fol. 3542] vania, South Shore, and Illinois Central to reach the property of the Chicago Regional Port Authority.

In addition, the Illinois Central and South Shore have entered into an agreement with the Pennsylvania granting bridge rights over tracks of Pennsylvania west of Calumet River connecting tracks of Illinois Central and those of the Chicago Regional Port Authority.

Similar agreements have been executed to grant the Belt Railway of Chicago bridge rights over tracks of the Illinois Central, Kensington & Eastern, and Pennsylvania in order to reach the property of the Port Authority.

The Illinois Central, Kensington & Eastern, and South Shore have also entered into contracts with the New York Central—lessee of Michigan Central—and the Indiana Harbor Belt under which the latter two lines are granted bridge rights jointly with other lines, as a tenant of the Illinois Central, over the tracks of the Kensington & Eastern from the junction of its tracks with those of the Michigan Central near 124th Street to the junction of its tracks with those of the Illinois Central east of Doty Avenue and west of the Calumet River. The Illinois Central has then

granted a joint bridge right for the use of its tracks extending to the tracks of the Pennsylvania on the west bank of the Calumet River north of 130th Street, from which point these two roads will use the Pennsylvania tracks to reach tracks owned by the Chicago Regional Port District. [fol. 3543] Q. Does that end your statement, Mr. Johnston?

A. That does, sir.

• • • • • • • •

[fol. 3549] October 1, 1957

• • • • • • • •

WAYNE A. JOHNSTON resumed his testimony as follows:

Cross examination.

By Mr. Dwinell:

• • • • • • • •

[fol. 3557] Q. How many industries do you serve in the City of Chicago?

A. Another witness is going to testify, and I don't recall—

Q. If another witness—

Exam. Albus: That is all right, Mr. Johnston, if somebody else is going to cover it.

The Witness: We are going to submit the number. It is far more than all the other railroads combined.

By Mr. Dwinell:

Q. Do you give good service to these industries?

A. Yes, sir.

Q. Excellent?

A. Yes, sir.

Q. Couldn't be better?

A. No, sir.

Q. To all of them.

A. Yes, sir.

Q. Are some of these industries served by other railroads also?

[fol. 3558] A. Yes, sir.

Q. But the quality rendered by you at all your industries is the same as that rendered by you at industries which are served also by other railroads?

A. Well, I would say so.

Q. Mr. Wright just said that you weren't selfish. How many of your hundreds of industries—you say more than any other railroad in Chicago—combined are you opening up to other railroads?

A. Not a one that I can prevent, but there is a lot of difference now between the industries that you are talking about and this Port Authority. You have a public situation with respect to the port, whereas an industry has been developed by the individual railroad.

Q. And so, although your industries are yours and are to remain yours, you are willing to carve up the territory of the Rock Island for any reason. Your reason may be good, but I just want to get it clear that you are willing to carve ours, but not yours.

A. I am not carving up your industries.

Q. Our territory, I said.

A. No, I am not carving up your territory.

• • • • • • •

[fol. 3561] Q. Are there any other areas of any other railroads, including the Rock Island, on which you have your eye that you would like to get into?

• • • • • • •

[fol. 3562] The Witness: None that I have my eye on now.

• • • • • • •

[fol. 3566] By Mr. Broker:

Q. Do you have any agreements with the Chicago Re-

[fol. 3567] gional Port District?

A. Signed agreements?

Q. Yes.

A. Not that I know of.

Q. Do you have any tentative agreements?

A. We have a proposal for the operation of the tracks within the port.

Q. Is that in writing?

A. It is a proposal.

Q. To the Regional Port District?

A. Yes.

• • • • • • •

By Mr. Broker:

Q. Do you have any agreements with any of the applicants other than those that are attached to the applications?

[fol. 3568] A. You mean agreements covering other operations or covering operations within the port?

Q. Operations within the port and involving access to the port.

A. None that I can recall.

Q. Has this joint facility agreement that was referred to yesterday been executed?

A. I can't answer that question, either. I am not up-to-date.

Q. Will you have a witness to testify as to the routes to be employed to reach the port?

A. We will, sir.

Q. You discussed here a number of port facilities that your company owns, I think New Orleans.

A. Gulfport.

Q. Gulfport, Chicago. Are you planning to open those to other railroads?

A. The port at New Orleans—our own port—is served by the Illinois Central. We are adjacent to the public port, which is served by the public railroad. So it is open now to all other railroads. The port at Gulfport, there is only one other railroad in the City of Gulfport, and that is the L & N, outside of the Illinois Central. The L & N as of

this hour has not indicated any desire to get in. We would [fol. 3569] consider what we would do in the way of opening the port at Gulfport. Now, as to the port adjacent to our property on the lakefront, that is an entirely different situation than the port at Lake Calumet. It is an industry located on our railroad. We paid much dollars to get the facility located there because of the lakefront ordinance, and we will have to consider our situation when and as the time comes to develop that port.

Q. How does it differ? I would like to know that.

A. The port at Lake Calumet is a public port, the same as Navy Pier. Navy Pier is served by the North Western Railroad and by no other railroad and is a port located on the lakefront. The lakefront port which will be served by the Illinois Central will be located south of the Navy Pier and is therefore an industry located on the Illinois Central Railroad.

Q. Do you know the plans for constructing that facility on the Chicago River?

A. I don't think anybody does.

Q. To the best of your knowledge do they involve public funds?

A. I don't think anybody knows. It has not been developed yet.

Q. Let us assume that public funds are used to develop that port. Do you intend to open it to other railroads?

A. We will decide that when the time comes. We have not made any decision as of the hour. There is a great [fol. 3570] possibility that there may be private funds. As a matter of fact, the present negotiations are confined to that sort of a situation.

Q. Well, now, weren't private funds used to build this facility at Lake Calumet? Didn't we hear Mr. Cohen say that yesterday, no public guarantee? Aren't private funds there involved?

A. I wouldn't say so. It is a public port, fostered by the City of Chicago.

• • • • • • •

[fol. 3572] FRED CARPI was sworn and testified as follows:

Direct examination.

By Mr. Bierma:

Q. Will you state your name and address?

A. My name is Fred Carpi, Vice President, Freight Sales and Services for the Pennsylvania Railroad at Philadelphia.

Q. You have had about forty years of service with the Pennsylvania?

A. Yes, sir.

Q. Then served in about every position from clerk to vice president?

A. That is correct.

• • • • • • •

[fol. 3581] When this potential industrial development is visualized in connection with the Pennsylvania's direct access to numerous cities and towns in the East as well as its access to hundreds of Indiana and Illinois communities which will want direct PRR service to the port, the value to the public of our application becomes clear. We believe that we can be of a real factor in aiding this development at Lake Calumet by virtue of our strategic location in the East and at Chicago.

For example, the Pennsylvania serves 485 industries directly in the Chicago switching district of which 180 are reached by no other railroad. This 485 compares with 202 for the Rock Island and 34 for the Nickel Plate.

Mr. Broker: I am going to object to the next sentence. The level of the rate has nothing to do with public convenience and necessity.

Mr. Bierma: I think this is one of the factors that all the shippers are interested in in this case, and consequently it is perfectly admissible. It is one of the advantages the shippers will get.

Exam. Albus: The objection is overruled. Continue.

The Witness: At Chicago, moreover, it is generally true that single line switching rates are lower than for joint movements. This is because extra handlings are eliminated [fol. 3582] which otherwise must be made when more than one carrier is involved. We believe that industries on our line should not be deprived of the benefits accruing from lower rates for single line service.

We have had under consideration for some time the possibility of constructing facilities for the trans-shipping of grain and coal through the Lake Calumet Port. We are negotiating with the Chicago Regional Port District for a site suitable for these purposes. There is every indication that foreign countries will continue to buy coal and grain in the United States for years to come.

• • • • • • •

[fol. 3592] Cross examination.

By Mr. Guandolo:

Q. Have you determined Chicago's share of the overall traffic that will move on the seaway?

A. No, I have not. It would be possible for us to make an estimate of that kind, but we haven't done so.

Q. Have you made an estimate of what Lake Calumet's share will be?

A. No, I haven't.

Q. You also say in your statement that the Pennsylvania has long been a major railroad at Chicago, and you are now handling for local industries, over 300,000 cars annually of coal, coke, grain and grain products, livestock, perishables, other food products, and hundreds of manufactured items. If you are granted authority to serve Lake Calumet, from which territories would you draw?

[fol. 3593] A. Well, we expect to draw largely from Indiana, and it might go into Ohio as well, part of Illinois, and some sections of the south, like Kentucky and perhaps as much as Tennessee, through our connections at Cincinnati

and Louisville. That is inbound. Outbound we expect to participate as far as the Atlantic Seaboard on certain traffic.

• • • • • • •

[fol. 3611] Redirect examination.

By Mr. Bierma:

Q. In the cross examination by Mr. Guandolo and by Mr. Broker both, they were very careful to stop with the lake ports. What is the general situation with regard to access [fol. 3612] by all railroads on general merchandise freight at the north Atlantic ports?

A. Well, to start with New York, which I suppose would be typical, and there in New York the waterfront is reached by all railroads. Take Philadephia. Whatever facilities are reached by one railroad can be reached by other railroads, either by floating or other shipping arrangements. That would be true at Wilmington, Baltimore, and all these other ports, so that so far as general merchandise is concerned, I don't know of any facility on the Atlantic Seaboard that cannot be reached—that can be reached by more than one line.

Q. The exceptions on the lakes where only one line reaches the port is when the railroad itself owns the pier, has invested the money in the pier.

A. I stressed that. That is true not only of the lake ports but also the Atlantic ports.

• • • • • • •

[fol. 3617] A. E. Baylis was sworn and testified as follows:

Direct examination.

By Mr. Olson:

Q. Will you please state your name and address?

A. A. E. Baylis, 466 Lexington, New York.

Q. Have you a prepared statement to present to the Commission today?

A. Yes, I have.

Q. Will you proceed with that statement?

A. Yes, sir, and in proceeding with it, I may deviate from it to some extent from time to time; I am Vice President Freight Sales and Service of the New York Central System, which embraces New York Central Railroad and [fol. 3618] Indiana Harbor Belt both applicants in this proceeding.

* * * * * * *

[fol. 3621] The Indiana Harbor Belt is the largest terminal switching carrier in the Chicago area operating 648 miles of railroad track in Illinois and Indiana. It operates as a separate corporate entity on its own behalf.

My Exhibit H-15 is a map showing the line of the Indiana Harbor Belt. It will be observed from the map that the Indiana Harbor Belt reaches the large Kensington Yard operated by the New York Central which is a little less than two rail miles to the Port.

In addition to New York Central yard facilities at Kensington to which the Indiana Harbor Belt has access, with a capacity of 792 cars and which can be expanded to 2,792 cars, the Indiana Harbor Belt on its own line of railroad, as the map shows, has a great number of yards in close proximity to the Port enabling it to handle expeditiously volume business to or from the port facility and elevators with connecting trunk lines. These yards are Blue Island Yard, Calumet City Yard, Gibson Yard, Hammond Yard, Burnham Yard, Irondale Yard and Michigan Avenue Yard. [fol. 3622] The capacity of the yards, distances, schedules and other details will be covered by Mr. Laskoske, Vice President-General Manager of the Indiana Harbor Belt.

Exhibit H-16 is a Chicago and Calumet Terminal District map on which we have indicated New York Central and Indiana Harbor Belt junction points for the interchange of cars with connecting railroads.

As indicated, the Indiana Harbor Belt connects with 31 railroads within the Chicago Switching District. The only railroads it does not have connections with are the Chi-

cago & Western Indiana Railroad and the Chicago Produce Terminal Company; both of these railroads are switching lines in the Chicago District.

The Indiana Harbor Belt because of its ability to make direct connections with all trunk line carriers is able to handle all traffic to and through the Chicago Gateway with utmost dispatch. In most cases, these connections with trunk lines are at or near their outer or make-up freight yards insuring expeditious service effecting savings in car days. These savings are insured by the strategic location of the Indiana Harbor Belt connections with trunk lines in noncongested areas.

• • • • • • •

[fol. 3628] Illustrating this further, and also bearing on the traffic growth of the port, in 1956 the Indiana Harbor Belt originated one car of steel on its line for the North Pier Terminal Warehouse; in contrast for a three-month period, January to March, 1957, Indiana Harbor Belt originated 108 cars of steel in the Chicago Switching District for the North Pier Terminal. Shippers, because the Indiana Harbor Belt did not serve the port direct, were obligated to pay the two-line rate on the movement of those 108 cars, whereas, if the Indiana Harbor Belt is permitted [fol. 3629] to serve the port, the single line charge would apply. On this particular traffic the use of the Rock Island costs shippers a minimum of $648. This amount could have been avoided if the Indiana Harbor Belt made direct delivery to the port. The same situation applies with respect to industries on the New York Central, a one-line charge would apply if New York Central serves the Port in contrast to the two-line charge via NYC-Rock Island.

On Chicago Switching District business for the port originating or terminating wholly where, for example, a railroad like the Milwaukee with which the Rock Island does not connect direct, requires utilization of a switch belt line resulting in a three-line haul on which the rate is 10½ cents per hundredweight, minimum 60,000 pounds,

minimum revenue $63.00 per car, contrasted to a two-line charge if the Indiana Harbor Belt is permitted to serve the port direct. This two-line charge is 9½ cents per hundredweight, minimum 60,000 pounds or $57.00 on a minimum car, also a minimum savings of $6.00 per car to the shipper.

Thus it can be seen that from the standpoint of economics to the shippers there are substantial savings through a one-line haul versus a two-line haul, and the same is true with a two-line haul versus a three-line haul.

Exhibit H-21 shows the switching charges of the Rock Island in the Chicago district. The New York Central in [fol. 3630] connection with its line-haul business, if it were permitted to serve the port direct, would retain these charges which it now absorbs, ranging from $8.09 to $22.92 per minimum car. Where the weight is in excess of 60,000 pounds and where provided for, naturally the absorptions would be higher.

The line-haul carriers with their need for a greater revenue have a big stake in keeping switching absorptions to a minimum. The New York Central is a classic example of this since its return on investment for 1956 was only 2.96 per cent.

The two elevators previously mentioned went into operation the latter part of June, 1957. Indications are other elevators will be added in the future engaging in both export and domestic trade. In the two months following the opening of the elevators, that is, July and August, 1957, New York Central line-hauled into Chicago, 114 cars of grain for these elevators and handled outbound 41 line-haul cars of grain.

Exhibit H-22 is introduced to show representative grain movements from an origin standpoint to the port elevators lined-hauled into Chicago via the New York Central for period July 17 to September 2, 1957. The last page of this exhibit lists cars for the same period received by the Indiana Harbor Belt from foreign lines for delivery to the

port where the Indiana Harbor Belt was used as an intermediate line to effect the delivery between the trunk line [fol. 3631] and Rock Island. This merely points up actual traffic which would have received two-line handling instead of three-line if Indiana Harbor Belt had access to the Port.

• • • • • • •

[fol. 3640] Cross examination.

By Mr. Dwinell:

Q. How close are you to the Glidden elevator of the Pennsylvania?

A. Actually we are in there, but the courts have to decide that.

Q. In other words—

[fol. 3641] A. We think we serve it, but somebody else doesn't.

Q. That is the Pennsylvania Railroad.

A. There is an honest difference of opinion.

Q. As to the contract rights.

A. That is right.

Q. Is there an honest difference of opinion that these benefits, which you have outlined, would accrue to the Glidden elevator people as a public elevator?

A. We think they should be served by us, of course.

Q. Aside from contract rights, they should be served by you anyway, shouldn't they?

A. Yes.

Q. And by the Rock Island.

A. I am not speaking for the Rock Island. I can't say. Perhaps you could tell me.

Q. Well, we agree with you.

Mr. Burchmore: May we inquire what the Glidden elevator is?

Mr. Dwinell: It is on the Calumet River near Torrance Avenue.

By Mr. Dwinell:

Q. In the next paragraph—in that same paragraph, you say that the New York Central and Indiana Harbor Belt have a combined car ownership in excess of 145,000 cars as contrasted to 30,000 cars for the Rock Island. That is another reason why you should be allowed in, I assume.

[fol. 3642] A. Yes. Car ownership is always important in serving an industrial area.

Q. In other words, you as a railroad with 145,000 cars have a right to go into the territory served exclusively by any railroad which is smaller than you.

A. No, sir.

Q. Why is this then a reason?

A. This is a territory that just happens to be already served from another direction by another railroad, but our position is that we should be in there. The only reason we haven't been in there, up to now there was nothing there.

• • • • • • •

[fol. 3653] Q. So as a result you feel that the Indiana Harbor Belt should in the immediate future handle a total of 9,000 cars to the port facility.

A. To the extent that our forecast has any accuracy, that is what the record shows.

Q. Every car that it handles to the port will be a car which the Rock Island will not handle, isn't that right?

A. It could be that because of customer preference the Rock Island and the IHB would handle interchangeably, but basically the cars under our application would be handled by the IHB rather than the Rock Island.

Q. If your application is granted, every car they handle will be a car that the Rock Island will not handle.

A. That is right.

• • • • • • •

[fol. 3667] OLIVER J. WILLIFORD, JR. was sworn and testified as follows:

Direct examination.

By Mr. O'Brien:

Q. Will you state your name, address, and occupation, please?

A. My name is Oliver J. Williford, Jr. I am Foreign Freight Traffic Manager of the Illinois Central Railroad with headquarters at 135 East Eleventh Place, Chicago 5, Illinois.

* * * * * * *

[fol. 3673] The number one position of the Illinois Central among the railroads in the volume of grain brought into Chicago will quite likely make it the principal inbound rail carrier of grain into the two Lake Calumet elevators and enable shippers along the Illinois Central to reach the elevators at Lake Calumet with dispatch via our single line service. The Illinois Central does not now directly serve any waterfront elevator in the Chicago area.

There are no grain elevators at our South Water Street facilities nor are there any elevators on any other line in that vicinity. Our South Water Street facilities, like others along the waterfront in that area, are principally used for the handling of package freight rather than bulk cargoes. While our South Water Street waterfront facilities are located within half a mile of the open water of Lake Michigan and are readily accessible to ocean-lake vessels, they are nowhere comparable in size or modern in character as those at Lake Calumet.

Good, efficient and prompt service is of course always important in general business but in the field of international commerce it is mandatory. Many overseas sales transactions are made on what are called letters of credit —for example, a buyer in France places an order for goods

with a Chicago exporter and to cover the sale arranges with a French bank to place a sum of money in a Chicago [fol. 3674] bank which the latter is to pay to the Chicago seller when the seller surrenders to the Chicago bank a steamship bill of lading showing that the goods in question are aboard a certain vessel. Such letters of credit almost invariably bear an expiration date and if they goods are not aboard the ship or a steamship bill of lading has not been issued prior to such date the Chicago bank will not pay the seller the money called for in the letter. Much inconvenience, and sometimes loss of money to the seller is the result. The seller must try to persuade the buyer to have the banks extend the date. In case of a falling market —where the market price of the goods is lower than at the time the deal was first made—the buyer may not be willing to extend the letter at the original price and may insist on a lower price. This means the seller must accept the lower price if he wishes to retain the sale. He is the loser in such a case. To avoid responsibility for such situations the railroads must exercise every effort to make delivery of goods entrusted to them at the dock in advance of the expiration date. Since the time allowed the railroad to move the goods from point of origin to shipside under such conditions is short, it can best assure proper performance by direct deliveries to steamship docks. Obviously if the initial line or the inbound road haul carrier can make such delivery directly to the steamship docks over its own rails without interchange with any other line it should be in [fol. 3675] position to render the fastest possible service.

The same type of fast service is demanded by international traders on import traffic who usually want their goods as soon as it is discharged by the incoming vessel onto the dock. The railroads, however, cannot move such freight until it has been cleared and released for inland movement by the Customs section of the U. S. Treasury Department. If for any reason U. S. Customs detains the movement of the goods the eagerness of the importer to obtain possession of the goods becomes more intense.

When the inland carrier is finally in position to move the freight it is urged to do so with the greatest possible dispatch.

Mr. Broker: Excuse me, Mr. Witness. Mr. Examiner, I request that the next two sentences be stricken. This witness is not an operating witness.

Mr. O'Brien: I think he has had sufficient experience, Mr. Examiner, in his particular field, which is foreign freight, import and export, to be able—

Exam. Albus: He may express an opinion. The objection is overruled. Continue, sir.

The Witness: This can best be accomplished by furnishing empty equipment promptly upon availability of the freight and by moving it with the greatest speed that conditions permit with the least possible number of yard handlings. The approval by the Commission of the instant ap- [fol. 3676] plication will enable the Illinois Central to accomplish this.

The Illinois Central serves a total of 285 industries in the Chicago area. Of these 237 are served by no other railroad. 48 industries are served jointly by the Illinois Central and by other lines. Of these industries only one is served by the Illinois Central and Rock Island. Approval by the Commission of this application will mean that the 285 industries in the Chicago area including 237 served exclusively by the Illinois Central will be afforded direct access to the facilities at Lake Calumet Harbor through the single line service of the Illinois Central. This, as was explained in Mr. Zimmerman's testimony, will mean faster service. It will likewise mean less expense to the shipper.

I should like to offer at this time Exhibit No. H-25, which shows the names of the industries in the Chicago District served by the lines that now reach Lake Calumet and by those that are seeking authority to serve it.

Aside from the state of Iowa, a limited area in northern Illinois, a small area of Louisiana, the territories served by the Illinois Central and Rock Island are widely separated. The Illinois Central has extensive mileage in central

and southern Illinois, Kentucky, Tennessee, Mississippi, Alabama and Indiana. The Rock Island has no lines in those areas.

The Rock Island has extensive mileage in Missouri, Kansas, Oklahoma, Colorado, Texas, Arkansas and Nebraska. [fol. 3677] The Illinois Central has no lines in the first five states mentioned and only very limited mileage in Arkansas and Nebraska. Both the Illinois Central and the Rock Island have rails in the state of Louisiana but they meet at only one point in western Louisiana-Ruston, Louisiana, and in my judgment can hardly be considered to be competitive in that state.

Aside from central Illinois and one station in Indiana—Indianapolis—the areas served by the Illinois Central and the Nickel Plate are wholly different.

Aside from northern Illinois, Iowa and to a limited extent in Louisiana and Indiana the Illinois Central and the lines presently serving the Lake Calumet district—the Rock Island and Nickel Plate—do not serve the same general areas.

I have explained that the Illinois Central has extensive mileage in Iowa, Kentucky, Tennessee, Mississippi, Louisiana and Alabama, in which states the other trunk line applicants have little or no mileage. Only at a few points in Illinois, Indiana and at Louisville, Kentucky do the lines of the Illinois Central meet those of the Pennsylvania and New York Central.

As I explained previously, grain, grain products and grain by-products, soybeans and soybean products are produced extensively along the lines of the Illinois Central in Illinois and Iowa. All of these commodities are exported [fol. 3678] in volume and the Chicago Regional Port District at Lake Calumet should be an excellent point of interchange between our line and the steamships for that traffic.

The same two states—Illinois and Iowa—are also sizable producers of meats, packing house products, hides and other animal products. The Lake Calumet district affords an excellent point of interchange between the railroads and

steamship lines for the interchange of those commodities. In the same two states there are a number of plants producing tractors, farm equipment, roadbuilding equipment, et cetera, all of which are exported in volume and the Lake Calumet district offers ample facilities for this traffic.

The states of Kentucky and Tennessee are important producers of unmanufactured tobacco. Exports of that commodity move in sizable quantities and the Lake Calumet area as a point of interchange between railroads and ships is attractive for that traffic.

The middle west is a large processor and consumer of many items of foreign origin that can well move by steamship to the Lake Calumet area and thence rail. For example, canned and processed seafoods such as sardines from Norway, Spain and Portugal, woodpulp, wallboard and paper from Sweden and Finland, dairy products from Denmark, Holland, Belgium and France, olives and olive oil from Italy, Spain and other producing areas around the [fol. 3679] Mediterranean Sea, cork from Spain, Portugal and north Africa, cheese from France, Belgium and Holland, beer, wine and other liquors from France, Germany, Holland, Denmark and the United Kingdom, automobiles from Germany, France, Italy, and the United Kingdom.

The United States is an important processor and consumer of sizable volumes of basic raw materials. Many of these are not produced in the U.S.A. at all or the quantity is insufficient to meet our country's demands. Many of these are imported from countries abroad. Notable among these commodities are tin from Bolivia and the Far East, chrome ore from Turkey, India, Africa and Cuba, manganese ore from Brazil and elsewhere, asbestos from Africa and eastern Canada, iron ore from Venezuela and eastern Canada, mahogany logs and lumber from Africa, the Philippine Islands and Central America, sisal fiber from Africa, the West Indies, Central America and Mexico, green coffee from Africa, South America and Central America, cocoa from Africa and South America, jute and burlap from Pakistan, crude rubber from the Far East,

and peat moss from Germany and Holland. These are but a few of the items.

We feel that the Lake Calumet Harbor District is suitable for the interchange of these commodities between ships and railroads. Some are now moving that way and no reason occurs to me why the Lake Calumet area may not in time handle all of them.

Tractors and other types of machinery are produced at [fol. 3680] Cedar Rapids, Waterloo, Charles City, Iowa, Rockford, Decatur, Peoria and Springfield, Illinois, all reached by the Illinois Central. Meat, packing house products and hides are produced at points along the Illinois Central at Dubuque, Waterloo, Cedar Rapids, Fort Dodge, Storm Lake, Sioux City, Iowa, Albert Lea, Minnesota, Sioux Falls, South Dakota, Omaha, Nebraska, et cetera. Grain and soybeans are produced throughout the entire area served by our lines in Illinois and Iowa. Tobacco is produced extensively along our lines in Kentucky and west Tennessee. Important roasters of imported green coffee are located at St. Louis, Missouri and Omaha, Nebraska. There are important plants at Calvert, Kentucky and Woodstock, Tennessee, which process imported chrome and manganese ore. The steel mills in the St. Louis district are in position to process imported iron ore. There are processors of mahogany and other imported woods at St. Louis, Memphis, Dubuque and other points on the Illinois Central. There are processors of imported jute and burlap at St. Louis and Indianapolis. Imported peat moss from Europe is used extensively along our lines by operators of nurseries, greenhouses, truck gardeners, et cetera.

With the Commission's approval of our application to directly serve the Lake Calumet Harbor facilities the Illinois Central will be in position to offer importers and exporters of all these commodities fast and efficient [fol. 3681] transportation service that will enhance the volume of international traffic through the Port of Chicago.

• • • • • • •

[fol. 3696] Otto H. Zimmerman was sworn and testified as follows:

Direct examination.

By Mr. O'Brien:

Q. Will you state your name, address, and occupation, please?

A. Otto H. Zimmerman, vice president, operations, Illinois Central Railroad.

Q. How long have you been with the Illinois Central Railroad?

A. About 22 years, since 1936.

Q. Will you briefly state your experience with the railroad?

A. I started in high school working on the section, and in 1936 I went switching. I progressed from switchman to assistant trainmaster, five, six jobs as trainmaster, two jobs as superintendent, came in as assistant to the vice president, operations, in charge of terminals. I was then made general superintendent of transportation, general manager and operating vice president about a year and a half ago.

Q. Do you have a statement you wish to make? Will you present that along with the exhibits to be distributed at the present time?

A. Yes, sir. As stated by our president, the Illinois Central Railroad serves 14 states, comprising an area popularly known as "Mid-America." The territory covered [fol. 3697] in the Chicago area is best illustrated by the map known as Exhibit No. H-26.

Exam. Albus: It may be so marked for identification.

(Exhibit No. H-26, Witness Zimmerman, was marked for identification.)

The Witness: There you may see our main line tracks extending from the Chicago River south through Congress Street Yard at 9th Street and the storage yard at 31st

Street, paralleling the shores of Lake Michigan to 55th Street, then proceeding south-southwest, crossing 95th Street at Cottage Grove Avenue, through Wildwood Yard at 121st Street, through Markham Yard at 157th Street, crossing U.S. Route 30 as far west as Kedzie Avenue, and through Matteson Yard, 28 miles south of the Chicago River.

Our western lines, serving such cities as Rockford, Illinois, Madison, Wisconsin, Dubuque, Cedar Rapids, Waterloo, and Sioux City, Iowa, Albert Lea, Minnesota, Omaha Nebraska, and Sioux Falls, South Daktoa, leave the main line at 16th Street and Indiana Avenue and serve the Chicago area for 19 miles, running southwest to Kedzie and 30th Street, thence west through our Hawthorne Yard, thence northwest and west.

We have two branch lines serving our surburban passengers, which also serve growing industries. The South Chicago Branch extends southeast from 67th Street to 91st and South Chicago, and the Blue Island Branch extends southwest from Kensington to Blue Island.

[fol. 3698] There are 252 miles of main track and 294 miles of yard track in the Chicago area.

As you may see from the exhibit, Wildwood Yard, with a present capacity of 1300 cars—which may be expanded to 4,000 cars—is located but 3.8 miles from the Port entrance; Markham Yard, with a capacity of 9,050 cars—which may be expanded to 13,300 cars—is approximately 9 miles from the port; Congress Street Yard has a capacity of 800 cars and is located 16.3 miles from our proposed entrance to the port; and Matteson Yard, with a capacity of 409 cars, is 17.3 miles from the port. Hawthorne Yard, with a capacity of 550 cars, is 23.5 miles from the Port. We also have a storage yard at 31st Street with a capacity of 100 cars. Our daily switching crews in and out of the yards average 40 at Markham, 20 at Congress Street, 8 at Hawthorne, and 1 at Wildwood.

The Illinois Central Railroad has direct connections in the Chicago area with 19 individual railroads and three

belt lines, as you may see from Exhibit No. H-26. Deliveries are made at least once a day, and to some roads two or three interchanges daily.

The Illinois Central Railroad operates transfer service between Markham Yard and Congress Street Yard and between Congress Street Yard and Hawthorne Yard. The schedules of the transfer trains are coordinated with the schedules of outbound road-haul trains south and west as [fol. 3699] well as with schedules of outbound road-haul trains south and west as well as with schedules of outbound trains of several connecting lines.

Our car supply is detailed on Exhibit No. H-27.

Exam. Albus: It will be so marked.

(Exhibit No. H-27, Witness Zimmerman, was marked for identification.)

The Witness: Ordinarily, when industrial areas enjoy the services of several railroads, the problem of car supply seldom arises. The railroads work together to meet the requirements of the shippers in the area, and on such days that one railroad may be faced with a deficiency in supply it is usually the case the other roads together can overcome such a deficiency. With the plan we propose, the port shippers should never experience a shortage of cars.

The applicants propose to reach the port by constructing a track leading out from the westbound main track of the Kensington and Eastern Railroad at a point a short distance east of Doty Avenue and extending thence east and north to a connection with the proposed tracks on property owned by the Pennsylvania Railroad at 130th Street.

By Mr. O'Brien:

Q. Right there may I interpose and say that that is described on Exhibit H-28.

(Exhibit No. H-28, Witness Zimmerman, was marked for identification.)

By Mr. O'Brien:

Q. Proceed.

[fol. 3700] A. The latter tracks, in turn, will connect with the tracks owned by the Chicago Regional Port District. A crossover will be installed between the eastbound and westbound tracks of the Kensington and Eastern Railroad immediately west of the connection with the track leading to the port to enable trains going to the port to cross from the eastbound to the westbound main track of the Kensington & Eastern to enter the track leading to the port.

As detailed in our return to questionnaire, the Kensington and Eastern Railroad is a wholly-owned subsidiary of the Illinois Central Railroad and, although leased to the Chicago, South Shore and South Bend Railroad, the Illinois Central has trackage rights over the K&E. Under contractual arrangements, the applicants will have bridge rights over the Illinois Central, the K&E, and the Pennsylvania to reach the port tracks. The trackage used by the applicants will be multiple on the Illinois Central to Kensington and double tracks from Kensington to the junction with the track leading to the port. All these tracks are block-signalled, and the junction at Kensington is protected by interlocker. The switches on the crossover between the two main tracks of the Kensington and Eastern and the connection with the track leading into the port will be remotely controlled.

The movements to and from the port will be made with little or no delay occasioned by the movement of passenger [fol. 3701] trains on the South Shore line, which use the east and west main tracks of the Kensington & Eastern. The witness for the South Shore will describe in greater detail the operation and schedules of those trains which afford ample time for trains serving the port to use the route and the crossover.

To afford the shippers and receivers of freight within the port an expeditious service, free of congestion or confusion, the applicants have submitted a proposal to the Chicago Regional Port District to lease the tracks and

other facilities now or hereafter provided by the port for railroad purposes. The railroads will pay the port rental for their use, and, at our expense, maintain such tracks and facilities and provide the switching service necessary on such tracks to meet the requirements of the tenants of the port. The applicants have agreed among themselves to jointly provide engines to perform the switching service required by all the railroads within the port, furnish the personnel to maintain the tracks and facilities, provide switching service, and perform such other railroad work or service that may be required within the port. Each of the railroads will bring its cars to the port and receive cars from the port on designated tracks in the Port District Yard from and to which track, cars will be switched for each of the railroads to and from industries within the port by engines provided for such service. Maintenance of the tracks and facilities and switching operations [fol. 3702] will be under the supervision of a supervisory officer selected by the railroads who will report to and be governed by directions of a Board of Managers composed of one representative of each of the railroads parties to the agreement with the Port Authorities. The maintenance of the tracks and facilities and the switching operation thereon within the port will be conducted as a joint facility, and each railroad will assume and bear a car-proportionate share of the expense incident to the maintenance and operation of such tracks and facilities, such proportionate share of each railroad to be in the same ratio that the number of loaded cars brought to and taken from the port by it during each calendar month bears to the total number of loaded cars brought to and taken from the port by all the railroads during such month. As the volume of business increases at the port and the railroads shall deem it advisable to lease or purchase locomotives and assign them to service within the port, each of them will advance in equal proportion the purchase price of such locomotives.

Mr. O'Brien: Mr. Examiner, at this time may we have marked for identification as Exhibit H-29 the memorandum of understanding between the railroads involved?

Exam. Albus: It may be so marked.

(Exhibit H-29, Witness Zimmerman, was marked for identification.)

By Mr. O'Brien:

Q. Will you proceed?

Exam. Albus: One minute, please. Off the record.

[fol. 3703] (Discussion off the record.)

The Witness: Any of the railroads now having access or hereafter obtaining authority to serve the port may join in this arrangement.

The map with the over-lays, known as Exhibit No. H-30, is a copy of the official map of the Chicago Terminal District.

Exam. Albus: That will be so marked.

(Exhibit No. 30, Witness Zimmerman was marked for identification.)

The Witness: When you drop down the first over-lay, you see the location of the Rock Island line—in purple—and its proximity to Lake Calumet. The next over-lay shows the lines of the Nickel Plate Railroad—in blue—showing its entrance into Chicago and its proximity to Lake Calumet.

Mr. O'Brien: For those who care to see, we have a large map blown up of that over here. I thought maybe the examiner might like to see it. I am sorry to interrupt you. Go ahead.

The Witness: That is all right.

The third over-lay shows the applicants—in red—giving not only their proximity to Lake Calumet but also the vast area within the Chicago switching district they serve. The fourth over-lay shows—in orange—the other proprietors of the Indiana Harbor Belt and the Belt Railway of

Chicago, who are not applicants and include the Santa Fe, [fol. 3704] Burlington, C&EI, Milwaukee, North Western, C&O, Erie, Grand Trunk, Monon, Soo Line, and Wabash. This shows the ultimate effect of the entrance into the Harbor of the Indiana Harbor Belt and the Belt Railway of Chicago with their proprietary lines all serving through the Belts the Lake Calumet Harbor.

(Exhibit No. H-31, Witness Zimmerman, was marked for identification.)

The Witness: On the second map, known as Exhibit No. H-31, the same effect is portrayed on the map of the United States: the first over-lay showing the route of the Rock Island Lines, the second over-lay showing the Nickel Plate Road, the third showing applicants' lines, and the fourth, the lines of the other proprietors of the Belts that are not applicants.

This plan has many advantages in that the switching operations required on the part of all the railroads within the port may be coordinated and performed by a joint switch engine or engines under the supervision and directions of the person in charge without favoritism or discrimination. By the joint arrangement, cars of each of the railroads, as and when required by industries, could be placed at one spotting. There would be no duplication of switching, resulting in substantial saving in time and money, as cars will be loaded or unloaded quicker and will be handled into and out of the Port with greater dispatch than if all railroads in the Port did their own switch- [fol. 3705] ing.

Speaking for the Illinois Central, we propose to serve the port from our Markham Yard via our tracks to the junction with the Kensington & Eastern Railroad at Kensington, and thence, over the route previously described, to the port. The running time in each direction should approximate one hour. As time or the occasion may require, we would also serve the port from Wildwood Yard over a portion of the same route with a running time of approximately 35 minutes. The small amount of time required in either case would enable the switching engines

to be coordinated with other switching service of the Illinois Central.

Traffic from the west over our western line destined to the port would move through Hawthorne Yard to Congress Street and from there to the port, with a running time of approximately three hours.

By serving the port as we propose to do, the cars of this company can be spotted by joint engines at the port on the same day or within 24 hours after arrival at Chicago. Direct delivery entails less handling and, being in control of the entire movement to the port, we are in position to expedite delivery as the occasion demands. If delivery is made through an intermediate carrier, the intermediate carrier must, necessarily, reclassify at some point, which results in extra handling and more time in consummating [fol. 3706] delivery. In other words, there is a certain amount of duplicate handling. We propose to make two trips each day to the port and such additional trips as may be necessary when and at such time as the volume of traffic requires.

Cars that we now have destined to the port are delivered to the Rock Island in what is known as the Old Pullman Yard. It is necessary for the engine making such a movement to proceed east from Kensington on the Kensington & Eastern for about a mile, then cross from the east to the westbound main of the Kensington & Eastern, and then back up for a distance of about one mile through a connection with the Pullman Railroad to the Old Pullman Yard. Such a delivery involves about 35 minutes of the switch engine's time to make the crossover and shove back into the yard whereas, if delivery is made directly to the port, cars could be placed on port tracks ready for placement at industries by the time they are placed in Old Pullman Yard.

By Mr. O'Brien:

Q. May I interrupt for just a moment? What you have just described as your present interchange movement with

the Rock Island is shown on Exhibit 28, is it not, in your dash lines?

A. Yes, in part, Mr. O'Brien. The crossover is shown, and the dotted line from Kensington down to about halfway southeast to about halfway between the junction and where it curves back into the port, there is a crossover [fol. 3707] that goes back in a northerly direction to what appears to be a stub track here, which is designated as Pullman Yard.

Q. Then it moves from there to the south again in order to reach the port.

A. Substantially, yes, sir.

Q. Under the present arrangement?

A. Under the present arrangement.

Q. You have already described what you propose to do under a direct connection, direct service.

A. That is right.

Q. Thank you. Will you proceed.

A. Consequently, even though delivery is made to the Rock Island as an intermediate carrier in close proximity to the port for placement within the port, we would be in position, if permitted to serve the port directly and by virtue of the joint switching arrangement as contemplated within the port, to place a car for loading or unloading within the port much quicker and at much less over-all expense than if delivered to the Rock Island.

By direct service to the port, with the switching operations within the port coordinated with schedules for deliveries to and removal of cars from the port best suited to meet the requirements of shippers and receivers of freight within the port, we can deliver cars at the port on the day of arrival, and they can be dispatched from Chi- [fol. 3708] cago on the same day that they are removed from the port.

Q. From Chicago, you meant to say, instead of from the port, on the same day.

A. Dispatched from Chicago on the same day they are removed from the port.

Q. Do you have anything else you wish to add?
A. No, I don't.

Mr. O'Brien: At this time, Mr. Examiner, we wish to offer Exhibits H-26 to 31 inclusive and tender the witness for cross examination.

Exam. Albus: Cross examine, please.

Mr. Burchmore: May I ask a question? This is not cross, because I think he is on our side. It is very hard to follow something very new, and I heard you say the Illinois Central engines will take the cars from Markham Yard to the port. You said that, did you not?

The Witness: I did.

Mr. Burchmore: And from the port they are to be switched by joint facility locomotive arrangements?

The Witness: Within the port.

Mr. Burchmore: When you say "to the port," can you identify the place on the maps where the Illinois Central engine will leave them? What part of the port?

The Witness: Do you have Exhibit H-28, Mr. Burchmore?

Mr. Burchmore: I think I know, but I would like you to [fol. 3709] tell on the record—yes. I want this for the record, not for me.

The Witness: Well, in our contemplated operation it is intended that each of the railroads handle their own cars to the port facilities, and as I explained, within the port there will be a joint facility engine which will do the spotting of the cars at elevators, and so forth, and we will follow the route that is Exhibit H-28, from Kensington interlocking, which is identified here on the map by about 115th Street and says "Kensington Street" on it, up to the top.

Mr. Burchmore: Upper left hand corner of the blueprint.

The Witness: Upper left hand corner of the map—down the dotted line, straight line, approximately 2½ miles to a track that curves back—crosses Doty Avenue and curves back in north and northwest up until about the middle

of the page you see a spot with several thin lines that are marked "Port District Yard," and that is approximately where, under our contemplated operation, we anticipate that each of the railroads will deliver his cars to and receive his cars from with his own engines, and then when the cars are put on those tracks, the joint facility engine will spot them at industries, and the joint facility engine will put outbound cars on those tracks for removal by the road engines that will pick them up when they take their cars into the port property.

[fol. 3710] Mr. Burchmore: When you have said that the railroads with their own power will take cars to the Port Authority, you meant to the Port District yard at present.

The Witness: That is true.

Mr. Burchmore: That is a rather large yard today, is it not?

The Witness: I would call it a medium sized yard. It isn't large, no, sir.

Mr. Burchmore: You contemplate as it grows, that yard would be enlarged or perhaps another yard like it substituted as operating convenience dictated, that it would be a yard of the Port Authority?

The Witness: Yes, we would like to have it that way. However, we have no positive agreement with the Port Authority that that would be the case. As you heard Mr. Cohen say yesterday, that he would not delegate any more property within the port facilities for yard tracks.

Mr. Burchmore: I will ask you, is not this sort of an arrangement a common operating practice through the territories of the Illinois Central where you have large congested areas for receipt of freight.

The Witness: Oh, yes.

Mr. Burchmore: This is not a new device?

The Witness: No, this isn't new. It is commonplace in the industry, and it is economical and practical, and it is [fol. 3711] the thing to do in a case such as this.

Mr. Burchmore: Thank you very much.

Exam. Albus: Any further direct examination?

Mr. Chartrand: I believe mine continues to fall in terms of direct.

Exam. Albus: Yes, I think so.

By Mr. Chartrand:

Q. Looking at Exhibit 28, as you stated, Mr. Cohen stated the capacity of the Port District yard was about 300 cars; what will happen under this arrangement if you attempt to make delivery to those yards and those yards are full?

A. Well, it is going to be necessary, as I visualize this operation, Mr. Chartrand, to have some supplemental facilities, either at a common point for all of the railroads nearby, or each of the railroads will have to supply some sort of supplemental facility to work in conjunction with the port area.

Q. Well, assuming for the moment that it is dependent upon the individual railroads, then where would the Illinois Central hold those cars?

Q. Well, we would, in a case where it became that voluminous, hold those cars in the Wildwood area, and as I indicated, while there are only 1300 car lengths of track there presently, there is room for 4,000 car lengths of track to be built, so we would work with a volume of busi- [fol. 3712] ness that heavy out of the Wildwood area for this operation.

Q. Suppose those facilities became loaded to capacity. Then what?

A. Well, now, I hope you are right because I would like to see it that heavy, but we would then back on up toward Markham, and we have ample facilities, I think, at Markham to take care of practically anything that we would bring in, and if not, we have room for expansion at Markham.

Q. You understand, when I direct these questions, I am not thinking of just the two grain elevators.

A. I understand.

Q. But you have the sheds there that have shipside facilities for anywhere from eight to twelve vessels, depending upon the size, that might be unloading import freight and reloading export freight, in addition to handling domestic freight, and when I go to the loading of the port yard and the Wildwood yard to capacity, then your next point would be at Markham Yard, if I understand you correctly.

A. That is correct.

Q. Under the present system of handling—let me state this: Do you know where the grain inspection tracks are located on your business that comes in from the south?

A. At Markham Yard.

Q. At the Markham Yard.

A. Yes, sir.

[fol. 3713] Q. After grain has been inspected and disposed of at the Markham Yard and ordered for Port District for a Rock Island delivery, where does the Illinois Central make delivery to the Rock Island?

A. Did I understand you to say for port delivery?

Q. Yes, sir.

A. It is delivered through this route to the Pullman Yard, as I explained earlier in the testimony.

Q. What is the capacity of that Pullman Yard?

A. We can only deliver on tracks 5, 6, and 7 there, and I would say that 40 cars practically fills those tracks. That is a guess, because I don't know.

Q. Have you had the experience to date whereby you tendered delivery there and they were unable to take them, and did you deliver elsewhere?

A. I don't know. I am not certain of that. I don't know.

Q. If those yards did become loaded to capacity at Pullman, where would you make delivery to the Rock Island?

A. Well, either through the Belt, or we might deliver at 95th Street, across the Nickel Plate crossing.

Q. At 95th Street.

A. Yes.

Q. It would be farther from the port, considering the starting point as Markham Yard, in delivering to the Rock Island than if you served the port direct.

[fol. 3714] A. Oh, yes, much farther.

Q. If you handled it through the Belt, where would you make delivery to the Belt?

A. At Clearing.

Q. How far is it from Markham to Clearing?

A. About 11 miles.

Q. And then the Rock Island takes it at that point, receives it at that point?

A. Yes, sir.

Q. And then hauls it clear back down to Pullman Yard or into the port in order to effect delivery.

A. I would have to assume that they did that. I don't know what route they would take from Clearing to this port facility.

Q. Do you make any deliveries to the Rock Island on through overhead traffic or for Rock Island industries elsewhere at Clearing?

A. Do we make any deliveries?

Q. Yes, to the Rock Island—

A. Yes.

Q. If it became necessary to deliver from Markham Yard grain to the Rock Island at Clearing, would it go to them in such a manner as would require another classification at Clearing?

A. Yes sir. It would be put in the general cut of cars for Clearing which would include cars for other railroads.

[fol. 3715] Q. Other railroads? Who would do that classification at Clearing?

A. The Belt.

Q. The Belt Railroad.

A. Yes, sir.

Q. Therefore, your inbound business of all description, all types of commodities, for all railroads would move in an interchange train from Markham to Clearing and there

be classified and the Rock Island business itself would be segregated and turned over to the Rock Island there.

A. That is substantially correct. There are a couple of exceptions to that, and one is that of course the coal for the docks, we separate it at Markham, and that goes east to the rail to water facility, and then we make a classification between east and west industries on the Belt Railroad, but substantially what you say with respect to delivery of traffic to other railroads would be as you outline.

Q. When the Belt Railway makes a classification there at Clearing and draws out the Rock Island cars, does it make a classification of those Rock Island cars, which one goes to the port, which one goes to 95th Street.

Mr. Osmond: If I may interrupt. We will have a Belt witness who will cover that very thoroughly.

Mr. Chartrand: Fine.

By Mr. Chartrand:

Q. Then one more question with regard to the present [fol. 3716] classification that you make at Markham for cars to be delivered to the Rock Island or Pullman. Do you deliver to the Rock Island at that point, segregated, the cars that are for delivery within the Port District and as to grain or as to general commodities, or do you just interchange port freight with them there, and then they classify?

A. We interchange port freight with them at the Pullman Yard, and they classify as to the various locations in the port facility; the Rock Island does.

Q. I see. Therefore there was a primary classification at Markham, and then a secondary classification there.

A. Yes.

Q. If the IC was successful in securing rights into the port, would you make a single classification—and I am thinking particularly of grain, off of the grain inspection tracks at Markham—cars for these two elevators with no necessity for further classification thereafter?

A. I would say ordinarily, with a light volume of business, no. When it comes to the point where this Port District yard is going to be congested, as you spoke about a moment ago, it is going to be necessary for the railroads coming into this area and using their supplemental yards to segregate certain of these classifications. Grain being the largest one, I assume that would probably be the first one that we would segregate. Then perhaps if some of the warehouse volume grows to certain proportions, it would [fol. 3717] have to be segregated. Perhaps we would want, in time, as ships come into the port, to segregate certain consignments to certain ships, but these are all things that we have talked about among ourselves as we drew up our proposed agreement to operate within the port that we would do when the time came.

Q. We have been doing a great deal of talking up to this point about inbound business. Now, with regard to outbound, has the Illinois Central had any outbound business from the Port District to date?

A. A little, Mr. Chartrand. I really don't know how much of that we have had, how many carloads.

Q. Well, a shipper within the port—suppose he desires to ship via the Illinois Central, and he needs 30 empty cars. How does he secure those? Does he order them from you, or does he get them from the Rock Island?

A. No, sir, he gets them from the Rock Island.

Q. You do not furnish those cars.

A. No, sir.

Q. Even though they are for Illinois Central shipment.

A. No, sir. That is Rock Island's place to furnish those cars. If he gets into a tight spot—and we have helped one another out as is typical in the industry—if he calls on us [fol. 3718] for cars for loading back to our railroad and we have them available, sometimes we furnish them, but if we did not have the cars, it would be the obligation of the Rock Island to furnish those cars.

• • • • • • •

[fol. 3725] October 2, 1957

• • • • • • •

H. H. Pevler was sworn and testified as follows:

Direct examination.

By Mr. Bierma:

Q. Mr. Pevler, will you state your name and address, please?

A. Herman H. Pevler, Vice-President, Regional Man-
[fol. 3726] ager of the Pennsylvania Railroad, Chicago.

• • • • • • •

[fol. 3729] Mr. Pevler: The Pennsylvania Railroad has three major freight yards and six other supporting yards in the Chicago area. In the three yards approximately 85 yard crews work daily. All of these yards are shown on Exhibit No. H-33 and Exhibit No. H-34.

59th Street Yard is located on the Panhandle Line at 59th Street and Western Avenue and is a yard where road trains originate and terminate, primarily to and from the east via Logansport; however, one or two trains per day originate and terminate that operate via the Panhandle Line to Bernice, thence to Colehour Junction and eastwardly to Fort Wayne. Interchange traffic is handled to and from this yard, as well as considerable industrial traffic. This yard has a capacity at the present time of 3600 cars and can be expanded to a total capacity of approximately 4500 cars. 21 yard crews are assigned to work at this yard daily.

55th Street Yard is located on the Fort Wayne Line at 55th Street and Normal Avenue and has a capacity of [fol. 3730] 2000 cars, with potential expansion to 2500 cars. This yard primarily originates and terminates trains via the Fort Wayne Line to and from Fort Wayne and the East. The trains originating and terminating at 55th Street are primarily composed of cars for interchange with

other lines in Chicago, and live-stock, TrucTrain and merchandise traffic. There is very little industrial traffic handled at this yard.

Colehour Yard is located on the Fort Wayne Line at 106th Street and Indianapolis Boulevard and has a capacity of 1743 cars and can be expanded to about 2500 cars. Approximately 30 yard crews are operated in and out of this area daily. This yard primarily serves industry in the Calumet area, and road trains do not generally originate or terminate in this yard. Through trains from either 59th or 55th Street pick up and set off cars in this yard for road movement.

Dolton Yard is located on the Panhandle Line due south of the Port area and has a capacity of 570 cars and can be expanded to a capacity of 100 cars. At the present time, three yard crews are used at this yard each day. Its primary function is interchange work, with very little industrial work.

In addition to the yards mentioned above, there are five other supporting yards in the Chicago District, namely, Riley Road, Hartsdale, Clarke, 110th Street and Irondale, which have a total capacity of 2250 cars and can be expanded, if necessary, to handle an additional 500 cars.

[fol. 3731] It has been our experience at other ports and large industrial areas that supporting yards are important factors in providing adequate service. As the needs of the Port develop, the Pennsylvania has supporting capacity to handle our share of the traffic and room to expand as the need develops for additional supporting capacity. Furthermore, it is so situated that the operation is very flexible and can be changed as the need arises to the best advantage to support the Port development.

We expect to serve the Port area initially from Dolton Yard, which is located on the Panhandle Line at 159th Street, or, as I have pointed out, due south of the Port area. Access to the Port area from Dolton Yard would be via the Panhandle Line to a connection with the Illinois Central at Riverdale, as shown on Exhibit No. H-33, via

the Illinois Central Railroad to a junction with the Kensington and Eastern Railroad at Kensington interlocking and via the Kensington and Eastern to the 130th Street entrance to the Port area. The Chicago, South Shore & South Bend also operate over the Kensington and Eastern. This line, with the exception of the P.R.R.-I.C. connection at Riverdale, is via main tracks with signals and interlockings, and in my opinion makes a good workable route to the Port area. The total distance by rail from Dolton to the Port via this route is 9.3 miles, and the running time from this yard to the Port area would be about one hour.

If volume and service would necessitate additional serv- [fol. 3732] ice to the Port, it could also be served from Colehour Yard on the Fort Wayne Line. Access to the Port from Colehour Yard would be via the Fort Wayne Line to South Chicago, thence South Chicago to Burnside (95th and Cottage Grove Avenue) via the Belt Railway of Chicago, thence via Illinois Central to Kensington interlocking and thence via Kensington and Eastern to the Port entrance. The distance from Colehour Yard to the Port would be about 10.9 miles, and the running time about one and one-half hours.

In order to improve its service, the Pennsylvania has taken advantage of its strategic belt-like location to establish direct connections with many of the major railroads in Chicago. This has been done to eliminate the interchange and classification time required when traffic is handled via intermediate lines, as additional time is required for interchange, inspection and classification when intermediate lines are injected into such moves.

In order to facilitate direction connections, we also have eliminated classification of this traffic at Chicago by preclassifying at Crestline, Fort Wayne and Logansport the traffic for and through Chicago. With the ultimate completion of Conway Yard northwest of Pittsburgh, much of this work will be done there, eliminating even the necessity for this work at the above-mentioned points, and will further expedite the movement through and to Chicago. This program contemplates the classification of cars the fewest

[fol. 3733] possible times in the interest of both economy and service.

• • • • • • •

[fol. 3755] DWIGHT A. FAWCETT was sworn and testified as follows:

[fol. 3756] Exam. Albus: May we have your name, please?

The Witness: My name is Dwight A. Fawcett.

Direct examination.

By Mr. Olson:

Q. Will you proceed with your statement, Mr. Fawcett?

A. My name is Dwight A. Fawcett, Resident Vice President of the New York Central Railroad Company in Chicago. I am also a Director and Vice President of the Indiana Harbor Belt Railroad Company. I have been with the New York Central Railroad 49 years in various capacities of the Operating and Transportation Departments and, as stated, presently Resident Vice President.

• • • • • • • •

[fol. 3762] Q. Now, Mr. Fawcett, the Kensington Yard, which you have mentioned and which is located less than two rail miles from the Port development here and which you have testified will be a strategic yard for serving the Port, is to be made available to all of the railroads if that should be necessary; isn't that correct?

A. It is. If the other applicants would like to make use of the facility, why, we would be glad to negotiate with them, yes.

Q. At the present time, there is no understanding or agreement with respect to any such participation; is that right?

A. There is none.

• • • • • • •

[fol. 3765] Cross examination.

By Mr. Dwinell:

Q. Now, if it should be deemed advisable that your Kensington Yard should be used by other railroad companies as a part of their operation into the Port District, you [fol. 3766] would make charges for that use of that yard, would you not?

A. Oh, naturally.

Q. And any expense then to which they are put by reason of getting into the yard would be increased by the amount of your charge?

A. Whatever our rental might be for their use, of course.

Mr. Dwinell: That is all.

Exam. Albus: Mr. Broker, please.

By Mr. Broker:

Q. Mr. Fawcett, I notice that you are the individual who signed both the 118 and the Section 52 applications of the New York Central.

A. That is correct.

Q. Now, you are aware, I assume, that originally the New York Central filed a petition to oppose the Illinois Central and the Pennsylvania Railroad; isn't that so?

A. That is correct.

Q. Now, why did they oppose that application?

A. Well, Mr. Broker, I suppose that is the general principle of the legal fraternity. They oppose everything. However—

Mr. Dwinell: I resent that.

Exam. Albus: I do too, but I cannot do anything about it. Go ahead, Mr. Fawcett.

The Witness: However, at that time none of the other applicants had shown any interest in going in via the route

that we had in our 19448; and as you know, withdrew the [fol. 3767] opposition—I guess you would call it opposition —when we decided to go in via the route as stated in previous testimony.

By Mr. Broker:

Q. I know that it has been withdrawn. That is a matter of record, but it comes down to this, doesn't it: That at one time, at least, you did not think the Illinois Central-Pennsylvania application had merit?

A. No, no. I wouldn't say we did not think it had merit.

Q. Why then did you oppose it if you thought it had merit?

A. We felt that our route was the most logical route and that we could adequately serve the Port; and we had no thought in the matter that the other applications had no merit, as you state.

Q. You thought then that the New York Central, the Indiana Harbor Belt could adequately service the Port; is that right?

A. That is correct.

Q. Now, I have been trying for two days to find out why you have not withdrawn your first application. Can you answer that question, please?

Mr. Olson: I think, Your Honor, that I have answered that question on behalf of the applicant.

Exam. Albus: I think that has been adequately answered. I do not think Mr. Fawcett has to add anything to what has already been said by counsel.

By Mr. Broker:

Q. At any rate, you are not pressing for your own individual route in, are you?

[fol. 3768] A. No, we are pressing for the Commission to approve the trackage agreements over the other applicants' lines.

Mr. Broker: Nothing else. Thank you.
Exam. Albus: Is there any further cross examination?

(No response.)

Exam. Albus: Any redirect?
Mr. Olson: Yes, Your Honor.
Exam. Albus: Proceed.

Redirect examination.

By Mr. Olson:

Q. Mr. Fawcett, in answering Mr. Dwinell's questions with reference to whether you have abandoned service to the area, did you or did you not intend your answers to be restricted to abondonment of service to the ice houses that were in question?

A. Only to the ice houses.

Q. Now, Mr. Fawcett, is it your understanding that the Port facility, which is now being developed here, will be of such magnitude that it will require the service of many railroads as well as the applicants, Indiana Harbor Belt-New York Central?

A. I think so.

Q. So that you wish to modify your previous statement in the record leaving the inference that only the Indiana Harbor Belt and New York Central could serve?

A. That is correct. At the time we first filed, we had no idea of the volume of business that they expect to handle [fol. 3769] through the Port. At least, we did not have that knowledge at that time.

• • • • • • •

[fol. 3770] T. E. Reynolds was sworn and testified as follows:

* * * * * * *

Direct examination.

By Mr. Olson:

Q. Will you state your name, sir?

A. My name is T. E. Reynolds. I am employed by the New York Central Railroad Company as Superintendent of its West and Western Division. This Division embraces the Chicago and Lake Calumet Area.

* * * * * * *

[fol. 3772] The New York Central recently began operating a completely new automatic hump classification yard at Buffalo, New York, called Frontier Yard. Construction is under way for a similar electronic classification yard at Elkhart, Indiana. Elkhart is less than one hundred miles from the Lake Calumet Port. It is anticipated that substantial parts of the New York Central road haul traffic [fol. 3773] destined to and originating at the Lake Calumet Port will be classified at the modern yard to be operating at Elkhart in December. This yard will increase efficiency and provide better service on the New York Central line between Chicago and New York as well as the other two traffic lines, the Michigan Central, to the north, and the Big Four to the south and the southeast. It is estimated that the new facility at Elkhart will reduce the detention time of cars held for classification from 24 to 8 hours. This will benefit the public and the New York Central due to increased efficiency and will permit shippers to fill orders more rapidly.

Within the Chicago Switching District, these trunk lines of the New York Central directly connect with 10 railroads. In addition to the connections of the New York Central, the Big Four, Michigan Central and main line encircle the Lake Calumet Port.

For the expeditious and efficient handling of traffic to and from the Lake Calumet Port, the New York Central has four railroad yards located in close proximity, these yards are indicated on my Exhibit H-43.

The Englewood Yard is located approximately 25 rail miles north of the Lake Calumet Port. This yard contains 54 tracks which can accommodate 2080 cars. At the present time at this yard interchange connections are maintained with the Illinois Central, Rock Island, Chicago Junction, [fol. 3774] Belt Railway of Chicago, Chicago, Burlington & Quincy and Chicago & North Western. The average number of cars handled in the Englewood Yard is 500 daily. This yard is primarily used for serving the Chicago area surrounding this facility. The Englewood Yard, due to its capacity and proximity to the Port could serve as a supporting yard for the handling of overflow traffic at Lake Calumet Port.

The South Chicago Yard is located approximately 20½ rail miles from the Lake Calumet Port. At the present time, this yard contains 8 tracks with a capacity of 375 cars. The crews serving the Englewood Yard also perform switching duties at South Chicago Yard. This yard is used for local industries and assembling cars for the Belt Railway of Chicago. As in the Englewood Yard, the South Chicago Yard will be available as a supporting facility to handle overflow traffic destined to or received from the Lake Calumet Port.

Indiana Harbor Elevator Yard is located 14 rail miles from the Lake Calumet Port. At the present time, this yard contains 35 tracks with a capacity of 1940 cars. It has room for possible expansion to accommodate an additional 400 cars bringing its total capacity to 2340 cars. At this yard the New York Central maintains interchange connections with Indiana Harbor Belt, Belt Railway of Chicago, Baltimore & Ohio Chicago Terminal and Elgin, Joliet & Eastern. Indiana Harbor Elevator Yard is primarily used to serve local industries in the immediate area, however,

it is available as a supporting yard to handle overflow [fol. 3775] traffic at the Lake Calumet Port.

The Kensington Yard of the New York Central is located immediately west of the Lake Calumet Port; however, the proposed rail route to be used will approximate two miles. Immediately adjacent to the tracks of the New York Central are located the tracks of the Kensington & Eastern and Pullman Railroads. These locations are illustrated on the various exhibits previously introduced. It will be noted that of all of the railroad facilities in the Chicago area owned by the applications, the Kensington Yard is the closest to the Port. At the present time, there are 20 tracks in the Kensington Yard with a capacity of 792 cars. However, this yard has room presently available for the construction of tracks to accommodate another 2000 cars, thereby bringing the capacity of the yard to 2792 cars. As the needs of the Port develop, and as the traffic to and from the Port increases in volume, the Kensington Yard can easily be expanded to reflect the increased needs of the Port. By way of illustration, when the Kensington Yard was working at greater capacity, it handled a total of 35,711 cars in the month of October, 1927.

The running time from the Kensington Yard into the Port property, if the trackage rights of the applicants are granted, would be approximately 20 minutes. At the Kensington Yard, interchange connections are maintained with the Pullman Railroad. The importance of this yard cannot be over-emphasized due to the need of supporting [fol. 3776] facilities for any ocean-going port. It has been the experience of the New York Central, in other ports and other large industrial areas, that supporting yards are necessary factors in providing adequate service to the areas and to the public. A large port handling ocean-going traffic cannot efficiently operate unless adequate supporting facilities are available. The Kensington Yard, by its close proximity to the port, its capacity to expand, and its present availability make it an indispensible element for the efficient operation of the Lake Calumet Port to handle its

present traffic and the substantial increase in traffic contemplated.

If the applications of the New York Central and Indiana Harbor Belt are acted upon favorably by this Commission, access to the Port would be obtained by use of the trackage rights now sought over the Kensington & Eastern, Illinois Central and Pennsylvania Railroads. At the present time, delivery for the Pullman Railroad from the Kensington Yard requires a movement to the Kensington & Eastern tracks near 124th Street and then a backup operation over the two main line tracks of the latter railroad. For direct movement into and out of the Port, it is contemplated that the existing cross-overs near 124th Street will be modified to permit direct and efficient movement from the Kensington Yard over the proposed trackage rights into the Port at Lake Calumet. It is my opinion that the method of entry contemplated by the New York Central, will be efficient and [fol. 3777] practical for moving traffic in and out of the Lake Calumet Port. In my experience in moving trains over the Kensington & Eastern Railroad to the Pullman Railroad, the longest period of time required to obtain clearance on the Kensington & Eastern tracks for South Shore trains has been 10 minutes. I might add, that interchange with the Pullman Railroad at the present time involves movements over the Kensington & Eastern and South Shore by New York Central and Illinois Central for Port traffic. Therefore, the proposed route of entry will not be a new experience as far as the New York Central is concerned.

• • • • • • •

[fol. 3782] A. W. LASKOSKE was sworn and testified as follows:

Direct examination.

By Mr. Olson:

Q. Will you state your name and address?
A. A. W. Laskoske, Hammond, Indiana.

Q. And you have a prepared statement for presentation to the Commission today, do you, Mr. Laskoske?

A. Yes, sir.

[fol. 3783] Q. Will you proceed with that statement?

A. My name is A. W. Laskoske. I am Vice President and General Manager of the Indiana Harbor Belt Railroad Company.

The Indiana Harbor Belt Railroad Company is one of the largest terminal switching carriers in the Chicago Switching District. With the exception of that part of its line extending to Dune Park, Indiana through Gary, Indiana, approximately 18 miles beyond the boundary of the Chicago Switching District, the entire line, comprising 126.47 miles, is located within the Chicago Switching District.

Its total trackage is 648.79 miles. The eastern terminus of the Indiana Harbor Belt is located at Dune Park, Indiana, and the road runs westerly through Gary, Gibson, and Hammond, Indiana, thence into Illinois and through Calumet City, Dolton, and Blue Island. At Blue Island, the line then runs generally northwesterly through Chicago Ridge, Argo, McCook, LaGrange, Broadview, Bellwood, Melrose Park and terminates at Franklin Park. From Argo a section of the road runs easterly to the Union Stock Yards.

Strategically located along the line of the Indiana Harbor Belt are seven main yards which provide for the expeditious handling of traffic to and from industries and connecting carriers that will be particularly useful in the handling of traffic originating at or destined to the Lake Calumet Port.

Norpaul Yard is located 42.64 rail miles from Kensing- [fol. 3784] ton Yard. It has a total of 40 tracks with a capacity of 1980 cars. There is room for possible expansion to accommodate an additional 400 cars. The interchange connections available at this yard are with the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, the Soo Line and the Chicago & North Western Railway Company.

At the present time there are nine yard crews working at Norpaul Yard. The distance from Norpaul Yard to the largest Indiana Harbor Belt yard at Gibson is approximately 37 miles. The Norpaul Yard handles approximately 1150 cars per day at the present time. This yard serves a fast growing industrial district.

Argo Yard of the Indiana Harbor Belt is located 31.81 rail miles from Kensington Yard. This yard has a total of 12 tracks with a capacity of 280 cars. There is room available at the present time for expansion to accommodate an additional 800 cars. The interchange connections available in the area of this yard are with the Gulf, Mobile & Ohio Railroad, the Sante Fe, Chicago & Illinois Western and the Belt Railway Company of Chicago. There are approximately 12 yard and transfer crews working out of this yard at the present time.

Blue Island Yard is located 17.10 rail miles from Kensington Yard. This yard has 92 tracks consisting of 62 eastbound and 30 westbound. Its present capacity is 5566 cars, consisting of 4005 cars in the eastbound and 1561 cars in the westbound yard. There is room for possible expansion [fol. 3785] to accommodate an additional 1500 cars, bringing the potential capacity to 7066 cars. Blue Island Yard is the point of receipt for all western line cars and point of delivery to all eastbound and southbound carriers. The direct interchange connections available at this yard are with the New York Central, Michigan Central, Baltimore & Ohio Chicago Terminal, Baltimore & Ohio, Chicago & Eastern Illinois, Chicago, Milwaukee, St. Paul & Pacific, Chicago, Rock Island & Pacific, Grand Truck, Illinois Central and Pennsylvania Railroads. The Blue Island Eastbound Yard is a car retarder system hump yard. At the present time, an approximate average of 2900 cars are humped per day. At this location we have a modern car repair facility consisting of five tracks with a capacity of approximately 125 cars. Blue Island Westbound Yard is a flat switching yard. Cars are received in this yard from the Grand Trunk, Pennsylvania, Chicago & Eastern Il-

linois, Illinois Central, Chicago, Milwaukee, St. Paul & Pacific and Baltimore & Ohio Chicago Terminal railroads. Classification is made for all westbound deliveries out of this yard.

Calumet City Yard is located 5.20 miles from Kensington Yard and consists of 520 cars. There is room available for expansion to accommodate an additional 250 cars bringing to total capacity of the yard to 770 cars.

Burnham Yard is located 6.79 miles, rail miles, from Kensington yard. This yard has 21 tracks with a capacity [fol. 3786] for 1270 cars. At the present time, there is room for additional expansion to accommodate 1500 cars, bringing the total capacity or Burham Yard to 2770 cars. The interchange connections available in the area of Calumet City and Burnham yards are with the Baltimore & Ohio, Nickel Plate, Chesapeake & Ohio, Erie, Monon and Chicago South Shore & South Bend railroads. Deliveries are made from Burnham Yard for transfer to the Chicago West Pullman and Southern and Chicago Short Line railroads at the jointly owned Irondale Yard of the Indiana Harbor Belt and Pennsylvania.

Trains are likewise made up at Burham Yard for the heavy steel, grain, and other industries located on the Calumet River Line and Calumet Western Railway.

There is an average of 1800 cars handled per day in the Calumet City and Burnham Yards.

Approximately 18 yard and transfer crews work jointly in and out of these two yards.

Gibson Yard of the Indiana Harbor Belt is located 8.07 rail miles from Kensington Yard. This yard has a total of 88 tracks consisting of 37 eastbound and 51 westbound. Present capacity is 6260 cars of which 2740 is in the eastbound yard and 3520 in the westbound yard. There is room available at the present time for expansion to accommodate an additional 1500 cars, bringing the potential capacity of Gibson Yard up to 7760 cars. The Gibson Yard has two hump yards in use at the present time. One hump operation is for eastbound traffic and one for westbound traffic. At

[fol. 3787] present 3500 to 4000 cars are humped per day. The interchange connections available in the area of this yard are with the Nickel Plate, New York Central, Michigan Central, Chesapeake & Ohio, Pennsylvania and Wabash railroads. There are approximately 29 yard crews working in the Gibson District at the present time.

The Michigan Avenue Yard is located 11.57 rail miles from Kensington Yard. This yard has 43 tracks with a capacity of 1370 cars. The interchange connections available in the area of this yard are with the Chesapeake & Ohio, Baltimore & Ohio Chicago Terminal, Pennsylvania and Elgin, Joliet & Eastern Railroads.

The Lake Front Yard which is part of the Michigan Avenue operation consists of 800 cars, with an expansion of 300 cars available. Both of these yards are located in a heavily industrialized area. Several large steel mills are served by the Indiana Harbor Belt through the Michigan Avenue and Lake Front Yards. There are 24 yard crews who work jointly between these two yards. Approximately 1400 cars per day are handled at these facilities.

• • • • • • •

[fol. 3798] By Mr. Chartrand:

Q. Well, of course, that was a pretty fast statement and I may not have picked up some of it.

A. I don't know what I can add to it. It is all in there.

Q. Well, what is it? It says the Gibson yard—

A. —has 88 tracks.

Q. (Continuing) —88 tracks.

A. Capacity is 6260 cars.

Q. Yes. I want to know how much of that you need for operating space and what you need that we can depend upon for storage space. Can we depend upon this entire figure?

A. I wouldn't think so, no; of course not.

Q. What I am getting at, Mr. Laskoske, is that if it is primarily an operating yard, I don't want to be—

A. It is an operating and a hold yard. We hold grain there now and we hold other cars.

Q. My question is what is the limit of that holding capacity in cars?

A. Roughly about 500.

Q. Five hundred. All right. Now, since there are limited facilities at the Kensington yard, and there really are limited facilities here at this Gibson Yard insofar as holding cars, then in respect to the GM&O and the C.G.W. and the Milwaukee, where would they next be held?

A. I would say we would hold them in Kensington Yard. It would be more easy to hold them in Kensington than in any other place.

[fol. 3799] Q. Well, Mr. Laskoske, you only have room for 792 cars at that—

A. But the yard has a possible expansion to 2000 cars.

Q. I am not going on the expansion. I want to know how it is going to be handled here until such time as you do expand.

A. We will handle them like we are handling them at the present time—handle them at Gibson.

Q. Gibson?

A. That's right.

Q. And I am going on the assumption that this freight gets heavy to the point where there is a further back up of that freight. Where would it be held? Blue Island?

A. No, Gibson. It would have to be either Gibson or Kensington. We have no storage facilities at Blue Island.

Q. All right. Now, if those two facilities were loaded, what would you do about receiving freight from the G.M.&O.?

A. Well, that is a supposition of your part that they will be loaded. I think we could take care of that when the time arose if they were loaded. In fact, we could anticipate the volume that you are speaking of and we could possibly make arrangements to hold cars at Blue Island inasmuch as we do not hold them at the present time.

I think as to the future, we can take care of the future.

Q. All right. What would you say—how long would it

take to go from Blue Island to the Port Elevator if you did hold some cars there under a special arrangement—temporary arrangement?

[fol. 3800] A. Oh, I would say about an hour and a half, two hours.

Q. I see. Now, we mentioned some time—a little bit ago about the Norris Elevator being located on the Pennsylvania. Is it not also located on the IHB?

A. Yes.

Q. And if this application was successful would that be a one-line haul then from the IHB to—to the IHB from Norris to the Port Elevator?

A. Yes.

Q. And how would that be handled? Through Gibson again?

A. Through Gibson at the present time, unless the volume was such that we could set the cars out at Calumet City.

• • • • • • •

[fol. 3806] D. E. FERNER was sworn and testified as follows:

Direct examination.

• • • • • • •

[fol. 3807] A. My name is D. E. Ferner. I am Acting General Manager of the Chicago South Shore and South Bend Railroad. I have been with the Railroad 49 years and for 11 years prior to July 1957 was Superintendent of Transportation; since July 1957 I have been Acting General Manager.

• • • • • • •

[fol. 3814] C. L. POOLE was sworn and testified as follows:

• • • • • • •

[fol. 3815] Direct examination.

By Mr. Gagen:

Q. Mr. Poole, will you please state your full name and address?

A. Charles L. Poole, 8035 South May Street.

Q. How long have you been employed by the Belt Railway.

A. I came with the Belt Railway in 1910.

Exam. Albus: What is your present position, please?

The Witness: Assistant to the President and General Manager.

* * * * * * *

[fol. 3817] The Belt Railway Company of Chicago was organized in 1882 to facilitate and provide an economical means for classification and transferring cars from one railroad to another in the Chicago Switching District. The ownership of the Belt Railway is held by twelve railroad companies which are: AT&SF, C&O, C&EI, CB&Q, CRI&P, Erie, CTW, IC, Monon, Pennsylvania, Wabash and Wisconson Central (operated by the Soo Line).

All twelve Belt owner roads interchange cars directly with one another through Belt facilities, pursuant to the terms of the Operating Agreement entered into as of November 1, 1912. Under this agreement the twelve owner roads pay the cost of operating and maintaining on a user basis rather than tariff charges which are applicable to other business handled by the Belt Railway.

The rails of the owner lines of the Belt Railway extend from the Atlantic Ocean to the Pacific Ocean and from the Gulf of Mexico on the south to the Canadian Border on the north. Through Canadian ownership of the two of these lines, all of Canada is reached.

In addition to the geographical length and breadth of the [fol. 3818] area reached by the rails of the Belt owner lines, equipment by way of rolling stock owned by these belt owner line railroads comprises a large proportion of the total rail equipment of this nature owned by all railroads. Equipment consisting of rolling stock owned by Belt owner lines is shown on Exhibit No. H-49 for identification. From this exhibit it is seen that of the total common box cars on all roads, as reported by the Official

Equipment Register, July 1957, totals 680,359, of which total 214,754 common box cars are owned by the railroad companies comprising the ownership of the Belt.

The central point on the Belt Railway and the principal classification yard is known as the Clearing Yard. This yard begins at the easterly end from a connection with the main line in the vicinity of 75th Street and Central Park Avenue and the yard extends to Harlem Avenue on the west. There is a connection from the west end of the Clearing Yard to the main line over what we call the 59th Street line. This yard is five miles in length from east to west and comprises 500 acres with 171 miles of track and a standing capacity of 10,673 cars.

• • • • • • •

[fol. 3824] Mr. Schroer: May I ask, Mr. Examiner, whether at this point you would like the witness to answer the question here as to information raised by Mr. Broker; namely, how the business would be handled by the Belt for delivery to the Port?

Exam. Albus: No, after we finish with his prepared statement.

Is that satisfactory to everybody?

All right, continue reading on page 7, the last paragraph.

The Witness: Movements to the Port under the proposed trackage agreements will be handled by the Belt as follows: Over Belt tracks between Clearing Yard and an existing connection with the Illinois Central tracks near 94th Street and Greenwood Avenue—

Mr. Schroer: May I interrupt, please. Can you point that out as you go along, Mr. Poole?

The Witness: That would be from the Clearing Yard down this Blue line (indicating.) to here.

By Mr. Schroer:

Q. Identify that point, please.

A. Greenwood Avenue—that is about Greenwood Avenue. That's where we connect with the Illinois Central and at Burnside.

[fol. 3825] Exam. Albus: Proceed, please.

The Witness (Continuing): Thence southerly on the Illinois Central freight tracks to Kensington—

Exam. Albus: Indicating.

The Witness: Right here.

Exam. Albus: Yes.

The Witness (Continuing): Thence over Kensington and Eastern tracks from Kensington to a point east of Doty Avenue where a new track is proposed to be built to connect with the tracks of the Pennsylvania Railroad Company at the north side of 130th Street just west of the Little Calumet River, thence over Pennsylvania tracks to a connection with the tracks of the Calumet Harbor, Chicago Regional Port District.

That is this line through here.

Exam. Albus: Indicating.

Mr. Burchmore: You mean the cars would end at the points last mentioned and would not be taken any farther than that?

The Witness: This is in the Port yard.

Mr. Burchmore: It would end at the Port Yard?

The Witness: That is the Port Yard.

Mr. Burchmore: Not at the connection—

The Witness: No, the Port Yard.

Mr. Burchmore: Not at the connection with the tracks of the Calumet Harbor terminal but a little beyond that point?

The Witness: Into the Port Yard, yes, sir.

[fol. 3826] Exam. Albus: Proceed, please.

The Witness: The Clearing Yard of the Belt Railway is 18.5 rail miles from the Calumet Harbor of the Chicago Regional Port District. I estimate that the running time from Clearing Yard to the Port will be two hours. The present plans are that the Belt will make two deliveries daily to the Port with two pulls therefrom daily. Additional service can be provided by the Belt if required by the volume of the Port business.

In the case of those railroads not having direct connections with the Rock Island but having a connection with the Belt, a delivery to the Port can be made via the Belt and Rock Island; however, if the Belt Railway is granted approval of the trackage rights sought through this application before this Commission, the Belt can then handle this business for those railroads not having direct connections with the Rock Island to the Port without any additional handling, that is, the Belt itself can make the delivery to the Port. In my opinion, direct rail access by the Belt Railway to the Port would greatly expedite deliveries to the Port and would make for speedier service to the Port. Direct rail access would further, in my opinion, permit service at least comparable to that where the Rock Island has direct connections with other trunk lines.

At the present time the Belt delivers with its own power business for Rock Island Pullman Division from Clearing to the Pullman Yard at 97th Street. This business con- [fol. 3827] sists of both Port business and traffic for industries outside the Port area located on the Pullman Division of the Rock Island.

During the month of August 1957, the Belt Railway delivered a total of 361 cars of grain and hides to the Rock Island Pullman Division at the 97th Street Yard, Chicago.

In the case of Port business delivered by the Belt to the Pullman 97th Street Yard, the Belt could, if direct access to the Port were afforded it, make a delivery of such business directly to the Port. This would involve approximately an additional hour's running time to make the delivery directly to the Port, and in my opinion, this movement would be more expeditious time-wise to a shipper than is the present handling under which the Belt delivers this Port business to the Rock Island Pullman Division at 97th Street for further classification by the Rock Island and then movement by the Rock Island of this business to the Calumet Port.

The Belt Railway with its classification facilities at Clearing Yard is equipped to handle equitably and fairly busi-

ness from owner lines and non-owner lines and industries by virtue of its modern and extensive facilities which I have described above. This is the essential function of the Belt Railway and it has had long experience in handling for its owners and non-owners alike such traffic day in and day out as well as during periods of peak business.

In my opinion, if the Belt is afforded direct rail access [fol. 3828] to the Port on the trackage rights proposed, approval of which is here sought, the Belt will provide a service which is required in the public interest.

By Mr. Schroer:

Q. Mr. Poole, in order that we may clarify the record, when you describe the movement over the proposed trackage rights, approval of which is sought here, the movement by the Belt would not be unlike the route the other applicant's seek, would it, and it would go to a connection with the Port Railroad.

* * * * * * *

[fol. 3840] By Mr. Chartrand:

Q. Now, if that Port District is loaded to capacity, where [fol. 3841] would you then hold?

A. We would hold first at Clearing; that is, business coming from the railroads who pull their cars into Clearing —business delivered to the Belt at Cragin, 22nd Street— the cars would be held at 22nd Street.

Q. Well, how long will it take you to get from the 22nd Street hold yards this business for the Port on an ordinary operating schedule?

A. Three hours.

Q. Three hours?

A. That would be the maximum.

Q. Now, do you serve the Corn Products plant at Argo?

A. We do.

Q. Would that be a one-line, cross-town haul from that industry into the elevators at the Port?

A. It would.

Mr. Chartrand: That is all. Thank you.

By Mr. Osmond:

Q. At the present time that movement is a two line movement from Argo onto the Port?

A. No, one line.

Q. At the present time?

A. At the present time, it would be two line.

By Mr. Gagen:

Q. If the trackage rights south were acquired, you mean to say it would be a one-line—

A. Yes.

• • • • • • •

[fol. 3845] WILLIAM J. RALEIGH, JR. was sworn and testified as follows:

Direct examination.

By Mr. Schroer:

• • • • • • •

[fol. 3846] Q. Would you read it at this time, please?

A. My name is William J. Raleigh, Jr. I am now General Traffic Manager of the Chicago South Shore and South Bend Railroad and prior to that appointment have served the Railroad since 1927 in the positions of Chief of Tariff Bureau, General Freight Agent, and Freight Traffic Manager.

• • • • • • •

[fol. 3848] I am familiar with the joint facility proposed by the applicants in this matter to the extent that it involves traffic questions of Chicago South Shore and South Bend Railroad. An advantage of the facility from a traffic standpoint over the present system of interchange with an-

other carrier would be to make available a single line rate to our industries within the Chicago Terminal Switching District, together with more timely service.

It is my opinion that establishment of the proposed joint facility would substantially increase our traffic and that we can provide high speed freight service due to the proximity of our main line to the Port and our direct connections with other roads at various intersecting points, particularly in Indiana.

With the anticipated successful development of the Port, [fol. 3849] we are looking forward to this increased revenue for the Chicago South Shore and South Bend Railroad.

As in the past and at the present time, we are participating in warehouse traffic into and out of the Port Authority, routed by such companies as Armour, Bendix Corporation, Bakelite Division of Union Carbide Company, Libby, McNeill & Libby, and many others who are regular shippers over the Chicago South Shore and South Bend Railroad. With direct service to the Port, we can eliminate heavy absorptions of switching and per diem charges now an additional operating expense to us. This amounts to about $28.00 per car. With an equal freight rate basis operated within the Chicago Switching District to and from the Port, the Hammond, Indiana industrial district located on our Railroad can compete favorably for new industries.

* * * * * * *

[fol. 3854] Fred J. Wasson was sworn and testified as follows:

[fol. 3855] Direct examination.

By Mr. Gagen:

Q. Mr. Wasson, will you please state your full name and address?

A. Fred J. Wasson, Chicago, Illinois.

Q. Mr. Wasson, you are employed by the Belt Railway, are you not?

A. I am.

Q. You are familiar with these proceedings?

A. I am.

Q. You have a statement which you wish to read into the record?

A. I do.

Exam. Albus: What is your capacity with the Belt, Mr. Wasson?

The Witness: Vice-President of Traffic.

* * * * * * *

[fol. 3858] The direct inbound movement to or outbound movement from industries handled by one line results in a saving in time to the shipping public. This time-saving advantage does not exist on any other movement in and out of the Chicago Switching District where the carriers switching the industry must receive the inbound movement from a road haul carrier or deliver it to a road haul carrier; and to the extent that three lines are used in getting cars inbound to an industry or outbound from an industry in road haul movement, there is a time-saving in the two-line movement route as compared with the three-line movement route just as there is a time-saving when the switching road also performs the road haul service in an outbound.

Rates and charges covering shipments moving entirely within the Chicago Switching District are, generally speaking, based on the number of carriers used without regard to distance hauled by them to complete the railroad service. Such rates and charges are based on a minimum of 60,000 pounds per car. At the present time rates for service in the Chicago District are as follows:

One line	8½¢ per cwt.	minimum per car $51.00
Two line	9½¢ per cwt.	minimum per car $57.00

[fol. 3859]

Three or more lines	10½¢ per cwt.	minimum per car $63.00

There are some exceptions to the above where a three-line

movement is permitted at a two-line rate basis. Single line rates are provided in the individual tariffs issued by each railroad. Two and three-line rates are carried in Tariff 21, issued by the Illinois Freight Association, I.C.C. 867, Ill. C.C. 433, R. G. Raasch, Agent.

If applicants' applications are granted, in excess of 1,000 industries in the Switching District would have available to them a one-line rate basis by reason of a one-line movement where presently there is a two-line movement and a two-line rate basis. Furthermore, movement on a three-line rate basis would in most cases be eliminated as the service would be rendered by two lines and on a two-line rate basis. As an example, The Belt Railway Company of Chicago serves over 400 industries in the Chicago Switching District. Very few of them are also served by the Rock Island. A two-line rate basis is applicable between these industries not served by the Rock Island and industries in the Port District served by the Rock Island. All of these industries would have available to them a one-line rate basis if the Belt Railway had a direct access to the Calumet Harbor Port District. Traffic presently moving between industries located in the Chicago Regional Port District and industries on carriers that do not have direct connection with the Rock Island Railroad is subject to a three-line rate basis. If the Belt Railway had access to the Port, such [fol. 3860] traffic could in most instances move on a two-line rate basis.

* * * * * * *

By Mr. Gagen:

Q. Mr. Wasson, do you know whether the Belt Railway Company of Chicago has ever requested trackage rights over the Rock Island Pullman Division?

A. We have.

Q. I hand you herewith what has been marked for identification as Applicants' Exhibit H-54, and ask you what it purports to be.

(Document tendered.)

A. This is a copy of a letter addressed to the President of The Rock Island Railroad under date of January 15, 1956, by the President of the Belt Railroad Company of Chicago, asking the Rock Island for trackage rights from a connection with The Belt Railroad in the neighborhood of Pullman Junction over the lines of the Pullman Division of the Rock Island Railroad into the Calumet Port.

Q. I hand you herewith, marked for identification Applicants' Exhibit H-55 and ask you what it purports to be.

A. It is a copy of a reply by the President of the Rock [fol. 3861] Island Railroad to the President of the Belt Railroad, dated January 26, 1956, answering in the negative on the request for the trackage rights.

• • • • • • •

[fol. 3868] Cross examination.

By Mr. Dwinell:

• • • • • • •

[fol. 3869] A. Well, I would not expect, for instance, to have the right to serve Rock Island Railroad owned property that they had developed for industrial purposes and serve such industries. I would not expect that right.

Q. So that that is only because this is a public facility as you look at it.

A. That is one of the reasons, a public facility developed by—and a new facility that has developed in the past few years.

Q. And you take that position because in your view the Rock Island has contributed nothing to its development?

A. I wouldn't say the Rock Island has contributed nothing, but I don't think the Rock Island in the development of that Port has contributed any more than any other railroad in the Chicago area.

Q. All right. Now, do you recall the attempt of the [fol. 3870] Illinois Central case before the Illinois Com-

merce Commission in 1947, -8 and -9 to build an entrance into Lake Calumet?

A. I have a slight recollection of it, yes.

Q. Well, do you remember the participation of the Belt Railroad in that?

A. I do.

Q. And you opposed the Illinois Central at that time?

A. I did—the railroad did.

Q. Yes, that is what I mean, the Belt railroad.

Now, you are in favor of the entrance of the Illinois Central?

A. There is no comparison. First, I am in favor of the Illinois Central going in there. I think the Belt Railroad is in favor of it, but there is no comparison as to what—Illinois proposed at that time as compared with what is proposed here. The Illinois Central at that time wanted to —in competition with us—to open a dock in an area that they had never been in, on a dock already in existence the Belt Railroad was handling the coal business from.

Q. In other words, you opposed the Illinois Central because they were going to institute a coal handling dock in territory which they had not served, in competition with the coal dock on the Calumet River which was then served by you?

A. No, I wouldn't say that they had never served, because I was aware of the fact that the Illinois Central and the [fol. 3871] Michigan Central Railroad at one time had served the two ice companies down there until the ice companies went out of business.

Q. Yes. All right, which they had not served for sometime at least.

A. That is a fact. There was nothing there for them to serve.

Q. In other words, your opposition to the Illinois Central at that time was based on the fact that if they can get in they would establish in territory which they were not then serving—I am not going to quarrel with you about past history—they would establish there a facility in that ter-

ritory which would be in competition with a facility located elsewhere and which you served—

A. That is right.

• • • • • • •

[fol. 3876] The Witness: Well, as far as the Belt Railroad is concerned, it would have no objections to the Pennsylvania doing anything it wanted with property that it owned, but it would object—just as it objected to the Illinois Central—going into an area that was publicly owned and for general use, and putting something up in competi-
[fol. 3877] tion with an industry that was already providing the service on the Belt Railroad that was on railroad property at that time.

• • • • • • •

[fol. 3883] Clarence O. Bunce was sworn and testified as follows:

Direct examination.

By Mr. Stuppi:

Q. Mr. Bunce, will you please identify yourself and proceed with your prepared testimony?

A. My name is Clarence O. Bunce, Freight Traffic Manager of the Santa Fe Railway System, with headquarters at Chicago.

• • • • • • •

[fol. 3886] The Santa Fe lines reach several ports in California and Texas. With one or two exceptions which I shall mention, each of them is serviced by an independent terminal railroad.

For example, in Los Angeles Harbor (including Wilmington, San Pedro, and East San Pedro) all wharves are served by the Harbor Belt Line, which is a joint terminal

facility operated for the account of the four railroads which enter Los Angeles.

In the San Francisco Bay area, the San Francisco side of the bay is served by the State Belt Railroad. The belt line serves all the piers and industries along its rails. On the east side of the bay the port of Oakland and the outer harbor are leased to the Encinal terminals and are served jointly by the Southern Pacific, the Oakland Terminal Railroad, and the Howard Terminal Railroad.

At Richmond the piers are served by the Parr Terminal Railroad, which is owned by the City and leased to Mr. Parr, who is a warehouse operator and has no connection with either the Southern Pacific or Santa Fe, the only two lines which serve that port.

At Alameda the Encinal terminal is served by the Alameda Belt Line, which although owned 50/50 by the Santa Fe and the Western Pacific, is independently operated.

[fol. 3887] The terminal lines which I have just mentioned give equal treatment to all of the railroads serving their respective areas.

At Beaumont, Texas, the port terminal facilities are operated by the Beaumont Wharf & Terminal Company which is owned by the railroads serving that port—to wit, the Kansas City Southern, the Santa Fe, the Missouri Pacific, and the Texas and New Orleans. The actual switching at the waterfront is done by the proprietary railroads alternating periodically.

At Galveston, Texas, the port terminal facilities are operated by Galveston Wharves, an independent corporation.

At Houston, Texas, the port terminal facilities are operated by the Houston Belt & Terminal Railroad and the Port Terminal Railroad Association.

At Texas City the port terminal facilities are operated by the Texas City Terminal Railroad.

In all instances the operations at the ports of Beaumont, Galveston, Houston, and Texas City are entirely impartial and the switching is done by the terminal com-

pany (or, in the case of Beaumont, by the then switching line) for the account of all carriers.

San Diego, California, although on the ocean, is an extremely minor port. That is because it is so near (around fifty miles) to Long Beach and Los Angeles harbors, where extensive facilities are available for sea-borne traffic. The [fol. 3888] two municipal wharves and the Navy Supply Depot are served exclusively by the Santa Fe. The only other railroad operating into San Diego is the San Diego, Arizona & Eastern, which generates but little export or import traffic and probably could not justify the expense of switch power and crews.

At Long Beach, California, the tracks serving the wharves are municipally owned. Switching to and from the docks is performed for all the railroads by the Pacific Electric on an impartial basis.

The Santa Fe System hauls a fairly large amount of export and import traffic. For example, during 1955 (which is considered a normal year) we handled via eastern seaports 592 export cars and 1441 import cars; via Texas ports we handled 52,300 export cars and 1028 import cars. Of this number of export cars via Texas ports 23,037 were loaded with grain.

The Santa Fe hauls a relatively small amount of grain or grain products for export through eastern seaports. However, we anticipate that upon the completion of the St. Lawrence Seaway a considerable amount of grain and grain products which presently move through our Gulf ports will be diverted to the Chicago port because of the geographical region of those commodities. We find it extremely difficult to estimate the volume of grain traffic that may be diverted through Lake Calumet, but our records reveal that during 1955 2095 cars of grain and grain products originating in the Kansas-Missouri grain belt [fol. 3889] were shipped to Gulf ports for export and we anticipate that a considerable portion of such traffic will be diverted to Chicago upon completion of the St. Lawrence Seaway.

Our records also show that during 1955 the Santa Fe handled 592 cars of export traffic and 1441 cars of import traffic to and from the North Atlantic ports, as shown on my Exhibit H-56 for identification. It is safe to say that we can expect a diversion of a considerable portion of this traffic to Chicago after the completion of the seaway and of the Lake Calumet port.

So, using our best judgment as to diversion of traffic upon completion of the St. Lawrence Seaway—that diversion being either to or from ship at Chicago rather than by rail to or from eastern ports, or diversion of traffic generated in the middlewest which heretofore had been imported to or exported from Gulf ports—we concluded that the Santa Fe can expect to bring to Lake Calumet a large number of cars of grain that heretofore had been exported via the Gulf ports, and a large number of cars of export and import commodities heretofore moving through North Atlantic ports. In addition, I think the Santa Fe can probably generate for Lake Calumet some carloads of grain and grain products from the State of Illinois.

• • • • • • •

[fol. 3892] Cross examination.

By Mr. Dwinell:

Q. In the first part of your statement, you told how all the evil things that we would do if we served Lake Calumet. If you were the sole server, are those the things [fol. 3893] you would do?

A. Well, you heard the statement. I think that what was said in the statement is entirely correct, yes.

Q. As to what we would do?

A. What any railroad would do, yes.

Q. Including yourself?

A. Yes, sir.

Q. Even though that happened to be against the rules and regulations?

A. It is the common practice of all railroads to take care of their own traffic first and then make their deliveries to connecting lines.

• • • • • • •

[fol. 3912] October 3, 1957

• • • • • • •

WILLIAM W. HUGGETT was sworn and testified as follows:

Direct examination.

By Mr. Burchmore:

Q. What is your name and occupation?

A. William W. Huggett. I am president of the North Pier Terminal Company here in Chicago. My office is at 444 Lake Shore Drive, and I have been in the transportation, warehousing, marine terminal operations for over forty years. I have been president of the North Pier Terminal Company since 1939.

Q. In these forty years have you had frequent, and I might say, regular occasion for studying and making yourself familiar with marine terminal operations and methods in other ports and other parts of this country?

[fol. 3913] A. Yes, I have.

Q. Has that been your life work?

A. Yes.

Q. Did you have any occasion, connection or definite responsibilities other than for your company with respect to this Calumet Harbor development?

A. Initially, as a result of the act of the legislature, the Chicago Regional Port District was organized, and I served as chairman of the board of directors of that body for several years.

Q. In your testimony today would you prefer not to offer any statements or any comments with respect to the policies, the actions, the methods of the Port Authority; that is to say, would you like to refrain from any testimony that has to do with the fact that you were chairman?

A. Definitely I would.

Q. Is the testimony that you give, will that be given in the light of your broad experience and observations?

A. Yes.

Q. What does your company operate?

A. Our company operates facilities at five locations in the Chicago area. The main plant, consisting of approximately 1½ square feet, is located at 365-589 East Illinois Street. Our Clybourn Avenue warehouse, consisting of 200,000 square feet, is located at 2740 North Clybourn Ave-
[fol. 3914] nue. Our downtown marine terminal at Navy Pier, we operate approximately 2,000 lineal feet of dock space and approximately 100,000 square feet of warehousing and transit area. This facility has berthing capacity sufficient to serve at least four ships at one time. It is primarily used for high-classed merchandise freight for truck delivery.

At the mouth of the Chicago River on the south bank, we operate over 500 feet of dock and approximately 100,000 square feet serving two ships at one time where general cargo is handled through open transit sheds.

At Lake Calumet we have facilities comprising approximately 1800 lineal feet of dock space with transit shed and warehouse of approximately 175,000 square feet served with the most modern cranes and fork-lift trucks, tractors and other freight handling equipment for the handling of both general and bulk cargo, except grain. These facilities are considered by marine experts as the most efficient and finest anywhere on the Great Lakes.

We also operate warehouse facilities comprising approximately 100,000 square feet which is located immediately back of and across the street from the above-mentioned transit shed and warehouse. This building is off the water front.

Q. Is that building, however, able to receive ocean freight by a short transfer across the intervening space?

A. Yes, we have planned eventually that if and when [fol. 3915] the transit shed space on the water front be-

comes congested, that merchandise freight will be transferred by truck or other means just across the street.

Q. At this point, so it will fit in with what you are saying later, these locations that you have mentioned other than Lake Calumet, your so-called main plant on East Illinois Street is in the general vicinity of Navy Pier, is it not?

A. That is correct.

Q. What railroad serves it?

A. Chicago and North Western Railroad.

Q. Only the North Western?

A. Only the North Western Railroad.

Q. What would be the physical possibilities of some other railroads building in there?

A. To my estimation there isn't any possibility.

Q. Would the entry of any other railroad physically involve several miles of construction through an extremely valuable real estate area?

A. Several miles or the building of a bridge.

Q. What about the North Pier Terminal—the Navy Pier property?

A. The Navy Pier property is also served by the Chicago & North Western alone.

Q. Right across is your property you described as—

A. We describe it as our dock house.

Q. By what railroads is that served?

[fol. 3916] A. That is served by the Illinois Central.

Q. Your other terminals that you mentioned—

A. The other one is the Clybourn Avenue warehouse, and that is off the water. That is an inland warehouse.

Q. Your operations at Lake Calumet Harbor involve primarily shed number—

A. We operate shed number 1 of the Chicago Regional Port District Harbor properties.

Q. Having seen that, I am a little puzzled by the use of the word "shed." I think of a wood shed. How much of a shed is it?

A. Well, it is quite a substantial building built of concrete and steel, fire resistant material, sprinklered, and a good portion of it is heated. It is anything but a shed, but the "shed" comes from water front properties in the east, terms that ordinarily call these long more or less narrow buildings sheds.

Exam. Albus: I take it it is bigger than a chicken coop.

The Witness: Yes. It is practically 200,000 square feet in one building.

By Mr. Burchmore:

Q. When did you begin operating and what has been the extent of your business there for the months you have been in operation?

A. We began operating at Lake Calumet Harbor in October of last year, and I have had an analysis made of our [fol. 3917] inbound rail receipts and outbound rail shipments from October 1, 1956, through July 31, 1957, which discloses a total of 2,985 cars in and out of railroads. Of this total, over 1500 cars were to or from points east of Illinois and Indiana state line. To be a little more precise we have received 149 cars from Indiana, 336 cars from Michigan and 631 cars from Ohio. The outbound cars for the three states totaled 258; the balance to or from other locations in the east. We had 96 in and 55 cars out of the facility in Illinois, total 151 cars in line haul movement, exclusive of switch movement. These figures are merely the beginning of our operations at Lake Calumet Harbor and will be increased materially as the Port develops and the St. Lawrence Seaway opens. In fact, we have sold our Marine Terminal at 29th and Western Avenue in Chicago, and have transferred all operations formerly handled there to Lake Calumet Harbor which will increase the tonnage substantially immediately.

Q. At that point is your company ever the consignor or the consignee of railroad shipments?

A. Very, very seldom except in connection with our own supplies.

Q. You handle the traffic in warehousing and marine terminal and other terminal operations by employment of the shippers who choose to ship by that movement through your facilities.

A. Yes, or by the transportation companies. In some in- [fol. 3918] stances we have contracts with the transportation companies as well as the shippers or receivers.

Q. What are your views with regard to the development of this terminal?

A. It has been my life-time ambition, for many years, dating back into the 1920's to have such facilities constructed and established at Lake Calumet where deep water ships, river barges, railroads and trucks could all interchange freight for the benefit of the shippers and receivers of freight in the Chicago area and hinterland.

All shippers and receivers of waterborne freight in Chicago and beyond will be benefited by the efficient, prompt service to such a public facility which is most unlike a private dock or industry.

The Lakes-to-the-Gulf waterway was completed in 1933 and the tonnages transported on this Lakes-to-the-Gulf Channel have increased immeasurably, or far beyond the estimates which were considered exaggerated prior to the time of construction.

The Calumet-Sag Channel which was constructed as a drainage outlet for the Calumet area has turned into a valuable navigation channel, and it has become so crowded and so important to the Calumet area that the Federal Government is now widening it from 60 feet to 225 feet. This will be completed in 1961. With the St. Lawrence Seaway completion in 1959, we are certainly going to have [fol. 3919] one of the busiest harbors in our country giving Chicago one of its greatest potentials ever offered.

Q. Are railroad services to and from the port of the finest character essential to the port development?

A. Well, yes, I think they are.

Q. In that question have you any material opposition to the Rock Island Railroad operating fully?

A. Definitely no.

I am very appreciative, as I am sure everyone that is interested in the Port of Chicago and especially in the Lake Calumet Harbor, of the past help and cooperation of the Chicago Rock Island and Pacific Railroad in the development of the harbor and will always feel an obligation as a result of its efforts and cooperation. However, I do feel that Lake Calumet Harbor, which is and always will be in my opinion, the most important factor in the harbor facilities in the Port of Chicago handling by far the largest volume of cargo including all types of commodities, namely, general cargo, transit cargo, iron and steel products, bulk materials, grain, et cetera should have all of the rail, truck and water facilities that are possibly available; and none of the transportation companies that have reasonable adjacent access to Lake Calumet Harbor should be excluded. The facilities of these transportation companies should be the inherent right of the shippers and receivers of domes- [fol. 3920] tic, import and export freight of Chicago and the area that can be served through the Port of Chicago. Therefore, I feel that the public in general from the producer or manufacturer to the consumer will best be served by allowing these railroads, who are making application for entrance into the Calumet Harbor over their own facilities or by agreement among themselves, be allowed to serve the Port. I am sure you will agree that the future of the port, after the completion of the St. Lawrence Seaway and the Calumet-Sag Channel, is going to be phenomenal and fantastic, and we will need facilities of all the railroads that can reasonably and efficiently serve the port facilities at Lake Calumet Harbor. This is especially true from the standpoint of cost in extra switching charges to the shippers, expense to the railroads and service to the port. Competition is the very essence of development of industry in our country and I am sure it is agreed by all where competition is present in any line of business, ser-

vice is more economical and efficient. One big factor in the operation of this port or any other port will be the matter of car supply, and from past experience have found when a vast number of railroad cars were needed for loading, or unloading ships—which happens on regular occasions—it is much easier and simpler to receive railroad cars promptly and on time if you are able to order them from several railroads directly rather than order them [fol. 3921] from one railroad who has to go beyond its line to get such cars.

It would be a detriment and hindrance to the Port of Chicago if it were limited to the service of a one-trunk line railroad when so many railroads are available, adjacent and willing to serve the port.

Q. That is your general position and philosophy and argument as to the public need for the facility.

A. That is correct.

Q. There are some facts that have been discussed in connection with the testimony of other witnesses and some features of your operation I would like you to tell about briefly. I think perhaps we should ask you first about the letter that you wrote to Maxim Cohen and Mr. Cohen read to the Commission which is in applicant's Exhibit H-7 in the Illinois Commission Docket 34895 back in 1947, and I hand you a copy of Exhibit H-7 pertaining to that letter. Mr. Maxim Cohen was at that time your principal assistant or one of your principal assistants in your business?

A. Yes.

Q. And you were away gallivanting, so you got him to testify.

A. That is correct.

Q. Tell about that letter and the circumstances of that case in so far as they seemed to throw any light at all on this proceeding.

A. Well, at that time we were very much interested—the [fol. 3922] Chicago and coal industry and railroads and all—in establishing coal—loading terminal to load coal from railroad direct into lake ships. I became interested

in such a facility being a part of our industry and proposed to the Illinois Central Railroad the possibility of us jointly building such a facility, realizing that between 75 and 95 per cent of all the coal coming into Chicago for transfer into lake ships was being hauled in by the Illinois Central, and naturally, realizing the Illinois Central would be in a position of wanting to save money and extra switching charges, I proposed a joint facility at Lake Calumet, and we were anxious to get the Illinois Central to the lake and to the waterfront, and in that regard I was anxious to cooperate with the Illinois Central to get that. Naturally I have no objection to any other railroad coming in, whether it be the trunk line or the Pullman Railroad that was there, but it was of mutual benefit for the Illinois Central to be there.

Q. And the other roads, eastern roads and western roads, entering Chicago were not large factor in the coal movement for the docks of the Chicago area.

A. Definitely; that is right.

Q. Did you at that time have any objections to others having access to the terminal if they cared to come in?

A. Definitely not. I would have been happy to have them at that time as I am today, because the more railroads [fol. 3923] and the more service that we can have at such a facility, the better off we would be.

Q. Since you made that remark, that prompts me to inquire, there have been some questions that were calculated, I think, to cause the impression that if Calumet Harbor had the benefit of many railroads it would be a discrimination against other parts of Chicago that had only one railroad. You have the terminals that are local to the North Western north of the river and terminal local to the Illinois Central south of the river. What is your statement with regard to the necessity for or desirability of or possibility of several railroads serving those plants, for instance, those terminals?

A. Well, definitely I feel, naturally or I wouldn't be here in this position—that it is most important, most beneficial

to have as many railroads serving a facility such as the Lake Calumet Harbor docks, and as a result of my past experience, we have found that when we are on one railroad, we are at a certain disadvantage to freight coming off of the other railroads from the standpoint of cost. In many instances for through freight that is going through transit business, transit privileges are not available. I might point out that all of the facilities at Lake Calumet are not just for export and import freight or water-borne freight. A good portion of their facilities are for transit privileges for freight and merchandise coming from the [fol. 3924] east and going to the west and vice versa, rail, all rail.

Q. Rail in and rail out.

A. Rail in and rail out, and not only for our merchandise freight, but I am sure that is the situation in connection with the grain movement also. We have been at a disadvantage at both our Navy Pier facility and also our facility on the Illinois Central on the south side, and I would say, had we not been at such a disadvantage with all of our facilities and all the space we have down there, I would not have been interested in going into Lake Calumet, because I have always anticipated that we would have a joint arrangement with a number of railroads that were accessible to the place rather than just the one rail.

Q. Have you had other terminals in the Chicago area which you have given up where any factor in giving up was the one-line service factor?

A. Yes. The one I referred to just a few minutes ago; we owned and operated a terminal at 29th and Western Avenue, known as the North Pier River Barge Terminal, where we principally handled the loading and unloading of barges. We handled some deep water ships there also, but we found it very much to our disadvantage to be located on one railroad, and as a result of our past experience had an opportunity to sell it, and we have sold it, and we are moving all of those operations to Lake Calumet because

of the possibility of getting the service that we are seek-
[fol. 3925] ing of a number of railroads.

I might also add that we operated for a number of years in Milwaukee, and we were local on the Chicago & North Western Railroad. We were there at the time that the Milwaukee case came up when the North Western was serving the Jones Island Municipal Dock and Marine Terminal, and there was a case where the Commission, the Interstate Commerce Commission, was asked to allow the other railroads in Milwaukee to come into the terminal, and eventally it was granted, and the Milwaukee was allowed to go into Jones Island, and as a result of that, with the municipal operation and private operation on the Milwaukee dock property, we weren't able to compete with them with one railroad, and at the end of our lease we had to give up our facilities in Milwaukee as a result of the service and expense of being on one railroad as against more than one railroad.

Q. Did you realize that that disadvantage was due to the location you selected?

A. Well, it was due to the fact that after we selected the location our competitors got better railroad service.

Exam. Albus: And more of it.

The Witness: And more of it.

By Mr. Burchmore:

Q. To be fair about it, I think you used to have a dock at East Chicago which you gave up.

A. Well, we had a dock at East Chicago, a very fine
[fol. 3926] facility, and that certainly wasn't as a result of inadequate railroad service. We were served by four railroads at that point, the Pennsylvania, the New York Central, the EJ&E, and the Indiana Harbor Belt. The reason we gave that facility up was that right after the war the ships were all off the lakes, and it didn't look as if they were going to come back for quite awhile, and the Texas Company decided they could use it immediately,

and they were willing to pay for it. It was a business deal, and we sold it.

Q. Are you on the Chicago Association of Commerce Committee that deals with transportation matters?

A. Yes, I am.

Q. Do you hear pretty much the opinion of Chicago shippers with regard to transportation matters and questions, in those meetings?

A. Yes.

Q. Are you aware of any complaint in Chicago, any feeling among Chicago shippers, of opposition to the grant of the further services at and the development of the Calumet Harbor? Is it a controversial matter among our shippers?

A. No, I wouldn't say—there is no controversial matter. It is a matter and opinion that everything should be done to develop the Lake Calumet Harbor to the best of the ability of everyone so that Chicago and the surrounding country will be best served, and everyone is interested in [fol. 3927] getting all types of transportation into the harbor area.

Q. Will you please state whether or not, in your opinion, the development of Lake Calumet Harbor is generally regarded among interested shippers as a part of the big development of the whole city area.

Mr. Broker: I am going to object on the ground this is all hearsay. He can give his own opinion.

Mr. Burchmore: Reputation has to be hearsay. Character doesn't.

Mr. Broker: We are not talking reputation. We are talking of opinions as to quality of service.

Mr. Burchmore: That is not what I am asking about. The development of the Port of Lake Calumet, is that something competitive with the development of the City of Chicago's water facilities?

A. Definitely not. Calumet Harbor is the harbor. It is a public facility for the use of all, and it isn't specifically

for just those located on the water front. The water front operators are service bodies who serve the public, not only in the Chicago district, but the whole midwest.

Q. Are you familiar with the details of how the applicants, if their application is granted, will perform the services at Lake Calumet?

A. Well, I just have faith in the railroads that they will know more about that than I do, and I am sure that from [fol. 3928] the standpoint of operating effectively, economically, and efficiently, it will be done. That is one thing I am willing to leave to the railroads.

Q. Have you any views to express or facts to give on the question of whether a joint facility arrangement—I think that is the term used by Witness Zimmerman—is the thing or some other method? Or are you interested?

A. I am not interested in that. I think that is a matter the railroads will settled amongst themselves, and I am sure that will be satisfactory.

Q. Have you read carefully the testimony of Mr. Williford as prepared and that of Mr. Zimmerman?

A. Well, I have read Mr. Williford's. I am afraid I haven't read Mr. Zimmerman's, and I didn't hear it.

Q. Mr. Williford went into some general customs and practices and questions of interest in regard to ocean export and import freight, such as financing and so forth. Are you familiar with those matters on which he touched?

A. Yes, very familiar.

Q. Could you very briefly make some comment thereon?

A. Well, I think Mr. Williford apparently spent a lot of time putting that thing together, and it was very well covered, and I can just say that time in the matter of receiving freight and loading it on to ships is the essence and much time and effort and inconvenience can be had if [fol. 3929] it isn't handled efficiently, and I certainly confirm everything Mr. Williford said. He said it better than I could, and I will certainly confirm it.

Q. While you are doing some confirming, are you personally familiar with the actions of the Rock Island Railroad with respect to free time on export freight in Chicago?

A. Oh, yes.

Q. Do you approve of that?

A. I definitely approve it, and I would certainly appreciate the time and effort and was very glad to help and cooperate in connection with it.

Q. You would be willing to accept their further cooperation in this particular matter here.

A. Definitely, and I am sure eventually we will get it.

Q. Now, on this matter of service, I think while you weren't here something or other has been said about service that would occur if the Rock Island had it alone. Have you, since you started operating at Lake Calumet, had any unfortunate experiences about the Rock Island service?

A. Oh, generally speaking it has been good, yes.

Q. Have they been giving you rather super service of recent months?

A. Yes, definitely.

Q. Lots of engines and lots of men and lots of attention.

A. That's correct.

[fol. 3930] Exam. Albus: How about car supply? Do you ever have any shortage of cars?

The Witness: Well, I think car supply and the demand up to this point hasn't been great enough to put any stress on beyond human man failure, but the thing I think we have to look at in connection with that, Mr. Commissioner, is that when we realize that these ships are going to be four and five times as large as they are now, meaning you can just figure 40 cars, an average of 40 cars to the thousand tons, and when we get into cars or ships that are going to load 8 or 9,000 tons, nine times, you are going to have 350 cars coming in and 350 cars going out, and when you have to accumulate—and we have space at our facility down there for five ships, even if we don't fill them all up, three ships, we will have a couple of barges in there with probably 40 or 50 cars in. It multiplies to the point of the demand at one time that you have for this, to say nothing of the grain situation that you have with an elevator of 13,000,000 tons of

grain moving in and out by rail and otherwise, and then we have our own domestic business—

Exam. Albus: You mean bushels.

The Witness: Yes, not tons, that is right. We have our domestic business with our warehouses and the other warehouses are going to be built, and we are going to have a truck terminal arrangement out there where we are looking [fol. 3931] for truck arrangements, piggyback situations, shipments that are going to be loaded into trailers and loaded on railroad cars, and you are just going to have a conglomeration of transportation out there, and it just seems that it is impossible to conceive that one railroad and one organization with one car supply is going to satisfy that situation, and especially in view of the fact that we have so much service and so many railroads right adjacent to the property, all of which are running around the lake, getting into Chicago.

By Mr. Burchmore:

Q. You have been actually loading and unloading ocean-going vessels at the dock at Lake Calumet.

A. Yes, we have been loading and unloading all this year since the opening of navigation.

Q. Are there tracks at your dock?

A. Two lines of tracks right on the dock apron.

Q. And also tracks on the land side?

A. Also, tracks on the land side.

Q. Your warehouse or shed is between rails on each side.

A. That is correct.

Q. How far is the shed itself from the water?

A. Forty feet.

Q. And those tracks are all port authority track—

A. That is correct.

Q. This matter of the Rock Island service, I don't want to [fol. 3932] have any misunderstanding about it. Have you made any complaints about it from the day you started there?

A. Yes, we have complained.

Q. Has the service improved?

A. Yes, it improved very much.

Q. When did it improve?

A. Since this case has been docketed.

Q. That is an interesting coincidence.

Is there any other matter you think pertinent to bring to the Commission attention in relation to your testimony or anything we have left unfinished here?

A. No, I don't think so.

Mr. Burchmore: Submitted for cross examination.

Mr. O'Brien: I just have one question, Mr. Examiner.

Exam. Albus: Mr. O'Brien, please.

By Mr. O'Brien:

Q. Apropos to what Mr. Burchmore just asked, if there is anything left unsaid, I presume due to your modesty, isn't it true that North Pier Terminal is perhaps the largest in the United States?

A. Yes, we are, with our facilities in Chicago. We also have warehouse and cold storage facilities in Cleveland, also in Indianapolis, and we have facilities and operations in New Orleans, and the operations in New Orleans are all marine.

Mr. O'Brien: That is all I have.

[fol. 3933] By Mr. Chartrand:

Q. Mr. Huggett, your shed number 1 down there plus the business that will be done by sheds 2 and 3, plus the business that will be done by the elevators will all call upon the same yard facilities and the same railroad for service, will they not?

A. Definitely, yes.

Q. As this thing expands, there will be further demands upon the facility and upon the carriers.

A. They will be immense.

Q. Considering the very nature of export business briefly, do you execute any ocean contracts?

A. No.

Q. That is all done by the shipper.

A. All done by the shipper.

Q. And he executes a contract which sets forth the date the ship is due to arrive.

A. That is correct.

Q. And proceeds to forward the merchandise from either the Chicago or the country to meet that sailing date.

A. That is right.

Q. Are you in a position with your 200,000 square foot capacity down there always to have in the house under cover this merchandise to meet a particular cargo?

A. No. That has never been anticipated, and the shed is most generally used to receive the freight from the ships [fol. 3934] going out and for loading and distribution of truck pickup scheduled car shipments, but generally speaking, in 75 per cent of our cargo, costs are based and rates are based on being loaded direct from cars into ships.

Q. If that ship does not get there on the scheduled date, arriving, say, two or three days later, is the shipper obligated to have his freight in a position to be loaded on the ship should it arrive the first day?

A. Yes, he does, or whether it arrives five or six days, and that was the basis of our case, if you will remember, on the seven-day demurrage time.

Q. In other words, because of the inherent nature of export business, there is a detention of cars or accumulation of cars at a port awaiting the arrival of the ship.

A. Definitely.

Q. Which is not peculiar to Chicago but has existed ever since ships plied the seas.

A. That is right, in every port in the United States or in the world.

Q. You indicated that approximately 350 cars would be loaded in an average cargo.

A. Of 9,000 tons.

Q. And that you could berth five ships simultaneously, which would be about 1750 cars, roughly. Those ships may have at that time brought in full cargoes of import merchandise.

[fol. 3935] A. That is correct.

Q. It would appear to me you are going to be pretty busy down there having accumulated 1750 cars to load and to unload, let's say, a like amount and need empty cars for outbound movement beyond the port, all of which in car demand will require a tremendous amount of track storage space.

A. Correct.

Q. With what you know of the Rock Island's operation to date and the capacity of the tracks within the port, can we go on the initial assumption that the 300 car capacity of the port yard—which they do not intend to expand—is hardly necessary to be considered? It would only take of but just a part of your requirements.

A. Definitely it will, and that is our main concern in this whole matter, that we know definitely that there are not facilities for the holding of the cars that are going to be handled at the port eventually, and what we are talking about, the eventual position of the port rather than today's condition.

Q. Then if the Rock Island cannot make delivery to the storage tracks within the port—which we are all going to share—it has been stated, I believe, on the record, that they would next hold at Pullman, the yard nearby. Do you have any direct knowledge as to the size of that yard, whether it is large or small?

[fol. 3936] A. I do not, no. I don't think—I know what it is today, and I don't know what they have intended doing in the Old Pullman shops and one thing and another, but I don't think that would be adequate. I think it is going to take the facilities of several railroads.

Q. Whatever the size of that yard is, large or small, if it would be unable to accommodate all of this traffic, then their next hold place would be at 95th Street.

A. That is correct.

Q. Have cars been held at 95th Street to date?

A. Yes.

Q. You haven't done very much business, have you?

A. No.

Q. If they have to be held back as far as 95th Street under present business conditions, of which the elevators have only been going a matter of a few months, and your business has not been near capacity, something is going to have to be done with regard to the Pullman Yard and possibly the 95th yard in order to accommodate this business.

A. That is my main concern.

Q. I would like to project that one step farther. Do you have any idea where the Rock Island might hold cars if the facilities at Pullman and 95th Street were loaded to capacity?

A. I am not too—I don't know too much about their capacities beyond that.

[fol. 3937] Q. In connection with this particular export business, it will necessarily cause an accumulation of cars. Now, is it important to you that if they are accumulated, that they be accumulated at such points as might be quickly accessible in point of time upon your call?

A. Definitely, yes.

Q. Distance may not be so much a factor as the time in which you would get from whatever hold yard it might be to your ship.

A. Time would be, and our other main concern is the fact that if they are congested, they are usually mixed, and we have an awful time sorting them out. We have had that condition existing where we have had to go down and look for cars amongst your grain cars because we or the railroad, none of us, knew just exactly where they were.

Q. Would you give any estimate, just a rough estimate, of the average length of time it would take to unload a carload of packaged goods, case goods, as an example?

A. Within an hour.

Q. But some of the general commodities might be of such a nature that it would take longer than an hour?

A. Oh, yes. If you had merchandise, a difference between several hundred packages and several thousand packages, it is extended maybe to 2½, 3 hours, depending upon your supply of labor.

[fol. 3938] Q. What I was trying to make a point of, comparison of 1750 cars of general cargo as compared to 1750 cars of grain.

A. There is no—

Q. In so far as time for unloading, it would take a great deal more time, would it not?

A. Very much more.

Q. Therefore, if you were running 1750 cars through a facility, you would really need more hold track space than they would.

A. Definitely.

Q. For a longer period.

A. And we would need prompter service so that our gangs would not be delayed or become idle, which is wasted time, and we would not be able to get the amount of work done in the 24-hour day that was necessary or called upon us to do.

Q. Since you are a public facility the same as the elevators, do you hold yourself open to receive from shippers, both within Chicago and out of state, transfer service into ocean-going ships?

A. Definitely, yes.

Q. Would a type of business, let's say the implement business, such as is manufactured on a large scale—

A. Can I go back and correct that or amplify it a little bit? We hold ourselves out as an agent of the transportation line. In other words, we just don't take anybody's [fol. 3939] freight in, no matter who it is from. We wouldn't take freight in for a steamship line that was probably docking at the International Terminals at 95th Street, or we wouldn't take one that had made arrangements to use the facilities of shed 2 and 3 or the Calumet Terminals.

We hold ourselves out as an agent for the steamship line to receive freight that is destined to them. In other words, they just can't ship everybody's freight in to us. We are not public to that extent. We make our arrangements with the transportation lines, and we accept the freight that they direct or divert into us.

Q. You hold yourself open to the shipping public without question in so far as that individual steamship line is concerned.

A. Within the realms of that steamship line, that is correct. Anybody who wants to ship to that one steamship line, we receive all the freight that anybody wants to ship.

Q. With that understanding, would the exportation of farm implements, which are manufactured in the Tri Cities, Davenport, Moline, and Rock Island, in large quantities, be the type of merchandise that you would handle?

A. Definitely, yes.

Q. Have you handled any of that type?

A. Yes.

Q. Are the Tri Cities served by the Rock Island?

A. Yes.

[fol. 3940] Q. Do you think that in the press of time, in order to meet the sailing date, that it would make a difference in so far as the selection of the carrier from the Tri Cities to Chicago if only one carrier served the port?

A. State that again?

Q. Well, if Rock Island was the only carrier serving the port, and they also served the Tri Cities, do you think it would make a difference in the selection of routing by the shipper under a tight time schedule as to what railroad he would route his shipments solely for the reason that the rail line carrier served the port?

A. Well, if he was in the Tri Cities, he would use the Rock Island direct to the port, if that is what you are implying, and if it happened to be at Freeport or someplace of that sort, it would be a detriment and would be

a delay to have to route it into the port by the Rock Island.

Mr. Burchmore: Does the Rock Island get to Freeport?

The Witness: No, not to my knowledge.

By Mr. Chartrand:

Q. In so far as the capacity of your shed to handle business, does that not come, let's say, in an uneven flow rather than considering, let's say, the capacity of your sheds on the square foot basis and dividing it by 12 months out of the year and try to anticipate what the daily capacity is?

A. We have no control. There is no control. It does not [fol. 3941] flow even, and you have your peaks and your valleys that continue. That is part of our business. We just cannot control the flow of tonnage.

Q. Therefore, when we set up demands on service and yard capacity, which is attendant to service, we have to consider the peaks.

A. The peaks and extremes, that is correct.

Q. In setting our sights.

A. That is correct. That goes for not only transportation facilities; that goes for our labor supply; that goes for our equipment supply in the way of cranes and freight handling equipment. We have to have sufficient equipment to handle the peaks, and many times the equipment is lying idle in between time, but we have to gauge ourselves for the extreme conditions.

Q. You indicated you would be doing business other than just export business, namely, import business and domestic business under transit, via all forms of transportation. That would probably even include exports from Chicago to the north Atlantic port when the season is closed here, wouldn't it?

A. No question about it, that will exist.

Q. One more question, Mr. Huggett. In your support of these applicants to get into this facility here, is it with

the understanding or premise that the better service that they hold themselves out to render would be done under no additional charge over and above what is being as- [fol. 3942] sessed upon the shipping public today?

A. That is correct.

Q. And you can even see some lower costs to the shipping public because of reduced crosstown switching charges.

A. That is correct, and also we might hope for, let's say, lower rates as a result of lower costs to the railroads.

Mr. Chartrand: Thank you, sir.

Exam. Albus: Any further questions? Mr. Osmond?

By Mr. Osmond:

Q. Along the lines of the last question asked, there has been testimony in this proceeding that if these applications are granted, more than 1,000 industries in the Chicago area will have single line service to the port. Do you think that would be a factor in the prompt handling of traffic to vessels?

A. Definitely it would certainly be an advantage, and in my survey and one thing and another, I think that runs into several thousands. You take the industries on the belt railroads, as well as the trunk line railroads, and that would be a definite advantage of having a one-line switch to the railroads, and in addition to that, I think the railroads would also create for themselves a volume of business that we are not getting today, because in your steel industry we have many instances where there are two-line and perhaps three-line switch to our facilities, that the steel industry is using truck facilities based on one-line [fol. 3943] switch. All they are asking from the trucking company is to give them a rate that will equal a one-line switch, and I am certain the way their facilities are set up, all things being equal, that they would much rather load that to railroad cars under one-line switch than they would to give it to the trucking companies.

Q. You have referred to the recent sale of your terminal at 29th and Western and the transfer of the business that was formerly conducted at that point to the port terminal there.

A. That is correct.

Q. In other words, that doesn't generate any additional business. That is just business that is being handled at a different location, is that right?

A. Yes, but it will generate more business at the port, at Lake Calumet Port.

Q. That is true. Now, I assume that you consider that the principal development at Lake Calumet Port will be the attachment of new business that would not normally move through Chicago, is that correct?

A. Well, definitely, you are going to develop—and Chicago, if—provided we have the railroad facilities and the efficient economical operation, I think that the development of the Port of Chicago is going to be phenomenal, and I think that 75 per cent of it is going to be concentrated around Lake Calumet, provided that we can give the right facilities and we will not get backed up and cars will not [fol. 3944] be lined up throughout the Chicago area to the extent that they won't run them through Chicago; they will run them to the Port of New Orleans or they will run them to the seaboard because of making ship's time where they can get better service.

Q. Part of the development would be generating new business, as you see it, and a relatively lesser part, from a transfer of business that is now being conducted at some other facility in Chicago.

A. Oh, yes, by far. The part that is being transferred from one place to another is nominal, doesn't mean anything. The new development, the potential, is the thing that is going to mean that Chicago—tonnage going through, export and import tonnage going through Chicago is going to run into many times—it is just beyond comprehension at this time.

Mr. Osmond: Thank you.
Exam. Albus: Any further questions?

(No response.)

Exam. Albus: Cross examine, please.
Mr. Bordes: Rock Island has no cross examination.
Exam. Albus: How about the Nickel Plate?
Mr. Broker: No questions.
Mr. Burchmore: Then there is no redirect.

(Witness excused.)

Mr. Burchmore: Mr. McConnell is testifying as vice president and general manager of the Packers Terminal [fol. 3945] Warehouse Corporation, whose intervening petition was authorized by the Commission's order of recent date—I am misstating. That company did not intervene, but its subsidiary or allied companies who operate the terminal intervened by order of September 25, and he will explain the relation of the three companies as his testimony proceeds.

Exam. Albus: Very well. Proceed.

George M. McConnell, Jr. was sworn and testified as follows:

Direct examination.

By Mr. Burchmore:

Q. What is your name and of what company are you an officer?

A. My name is George M. McConnell, Jr. I am vice president and general manager of Packers Terminal and Warehouse Company. I am president of the Seaway Stevedoring Company. I am president of the Illiana Storage Company.

Q. What is the Seaway Stevedoring Company, and what does it operate?

A. Seaway Stevedoring Company is incorporated in the State of Illinois as a public marine terminal operator. The principal place of business is Transit Shed #2, 128th and Stony Island Avenue, Chicago Regional Port District. Seaway has been operating at this point, loading and unloading ships, since September 1956.

Q. Are the operations those of handling goods to and [fol. 3946] from ships as a marine terminal operation?

A. Yes, sir.

Q. Describe this so-called transit shed number 2.

A. Transit Shed #2 consists of a single story sprinklered building with dimensions of 600 feet by 120 feet running parallel to a 600 foot wharf. On the landward side there is a rail siding and covered dock 15 feet in width and 600 feet in length. On the 45 foot wide wharf there are double tracks running the full length which are flush with the paving.

Q. Is this a modern concrete masonry and steel fireproof building?

A. Yes, sir. It is one of the most modern buildings that can be constructed.

Q. Are the tracks to which you refer tracks of the port?

A. Yes, sir. They are tracks that belong to the Port District.

Q. What is the storage company?

A. Illiana Storage Company is incorporated in the State of Indiana as a public merchandise warehouse. The principal place of business is 1334 Field Street, Hammond, Indiana and general offices at 11 Industrial Road, Hammond.

Illiana Storage Company has been conducting warehousing operations at Transit Shed #2, only since April of this year.

Q. The companies are really just getting started in business, are they?

[fol. 3947] A. That is correct, sir.

Q. Up to this time what have you had?

A. Up to the present time Illiana Storage Company has received and distributed approximately 270 carloads. This storage originated for the most part locally. About 123 cars of tin plate was stored for a Chicago Can Company. About 100 cars of various heavy appliances were and are being stored for a local manufacturer. About 35 cars are glassware and the balance was imported cement which was used in Chicago and vicinity.

Q. Proceed with your views with regard to this matter now on hearing.

A. The present facilities at Lake Calumet are expected to be utilized to their fullest extent within several years and large additions are planned for early construction. The full use of the existing facilities let alone the planned additions would place an overwhelming burden on a single rail carrier for switching service and reasonable sorting of cars. Frequently special types of cars are required for loading and experience has shown that a single line cannot be expected to provide enough of such equipment on short notice.

Further, the development of overseas trade from the lakes should receive a very great boost from the carriers serving the agricultural and industrial midwest. Direct service by carriers who operate in this area will promote [fol. 3948] the growth and economy of this import and export traffic. Shippers in a greater area would have the benefit of a reliable source of traffic information on import and export advantages through a number of railroads serving a greater area. A definite benefit to our companies would be the many shippers who would use our facilities if they could take advantage of single line switching rates.

Q. These many shippers to which you refer, are they located in the City of Chicago, or are they located in the hinterlands of various states, or both?

A. Well, they would be located all over the midwest actually, sir.

Q. You are not here talking about a service on behalf of concerns that are located in the Lake Calumet area

or in the City of Chicago, but shippers who would have traffic moving through Chicago.

A. Very definitely.

Q. Even though located here, including those located here.

A. Including those located here.

Q. Proceed with your statement.

A. Probably the most important reason for needing more than a single railroad serving the Chicago Regional Port District is the need for continual switch service at all facilities. This need will be felt more and more as the use of the port by cargo vessels and barges increases. [fol. 3949] The regular placement of cars at dock side for loading materials such as steel and bulk commodities is an example.

We would hope that also with more lines participating at the Port of Chicago, there would be a greater interest and incentive to make import and export rates available to midwestern shippers and receivers. That they might have the economic advantages of shipping through the Port of Chicago with the saving of time, distance and freight that they should expect.

Q. Now point to the tie-up of the three companies of which you have mentioned you are an official.

A. Transit Shed #2, as Mr. Cohen testified, is owned by Chicago Regional Port District, and is under lease to Packers Terminal & Warehouse Corporation. Seaway Stevedoring Company and Illiana Storage Company, in both of which Packers Terminal & Warehouse Corporation has a large financial interest, are the operators of the property.

Q. You heard Mr. Huggett's testimony a few minutes ago.

A. Yes, sir.

Q. Your line of business is the same as his, is it not?

A. Yes, sir.

Q. Is there any material respect that you noticed in his testimony where you would differ from him, or do you in

general adopt his testimony, to save repetition, or what about it?

[fol. 3950] A. I felt that Mr. Huggett very ably answered, and my ideas coincide exactly with his.

Q. Who prepared the notes from which you have been reading?

A. I did, sir.

Q. In preparing those notes did you have in mind the discussions in which it was outlined what in general Mr. Huggett would cover, so that you would not duplicate the same matters in detail?

A. I don't know that I understand you, but I did not do that in conjunction with anybody else.

Mr. Burchmore: That is all.

Exam. Albus: Any further questions on direct?

(No response.)

Exam. Albus: Any cross examination?

Mr. Bordes: No cross examination by Rock Island.

Mr. Broker: No questions.

Exam. Albus: Thank you very much. You are excused. Thank you.

(Witness excused.)

KEVIN T. LEVINS was sworn and testified as follows:

Direct examination.

By Mr. Burchmore:

Q. Will you please state your name and your occupation?

A. I am Kevin T. Levins, the executive vice president [fol. 3951] and general manager of Calumet Harbor Terminals, Inc.

Q. Did you prepare a manuscript of notes of the matters that you are prepared to cover in your testimony here?

A. I have done so.

Q. With that before you, I will ask you, what is the Calumet Harbor Terminals, and what are its operations?

A. Calumet Harbor Terminals, Inc. is an Illinois corporation whose principal office is located at 12933 South Stony Island Avenue, Chicago, Illinois. This is in the heart of Lake Calumet Harbor area.

The corporation is engaged in the operation of warehouses and marine terminals at several locations in the Lake Calumet Harbor area.

Warehouse operations are carried on in the eastern half of the warehouse facility which is known as backup warehouse number 1 and is located on the property of the Chicago Regional Port District. The operations at transit shed number 3 which is owned by the Chicago Regional Port District likewise are carried on by Calumet Harbor Terminals, Inc. Transit shed number 3 contains 72,000 square feet of covered warehouse space. This facility includes 1,000 linear feet of dock situated at the south end of Lake Calumet together with the wharf or dock area between the dock face and the warehouse building and running parallel thereto.

In addition to the operation of these facilities, the corporation likewise is engaged in warehousing operations on [fol. 3952] a 32 acre tract which adjoins the property of the Chicago Regional Port District on the east. This tract is improved with several warehouses and storage sheds which contain a total area of approximately 225,000 square feet of warehouse and storage space.

This tract abuts on the north upon the entrance to Lake Calumet and on the east upon the Cal-Sag Channel. The waterfront area along Lake Calumet is improved with approximately 1200 linear feet of dock and wharf area while the frontage along the Cal-Sag Channel has approximately 200 linear feet of improved dock and wharf area.

The operations of Calumet Harbor Terminals Inc. consist in the storage of all those types of goods, merchandise and commodities which are usually and customarily handled by

general public warehousemen. In connection with such storage, goods and commodities are transferred between the different warehouses and terminal sheds operated by the corporation. They likewise are transferred to and from warehouse and ships and barges as well as to and from the corporation's warehouses and rail cars and trucks.

The goods and commodities which Calumet Harbor Terminals, Inc. handles in the course of its operation includes both export and import freight as well as domestic freight.

Vessels and barges are berthed, unloaded and loaded at docks which are under the control of Calumet Harbor [fol. 3953] Terminals, Inc. The stevedoring operations as well as the related services arising in connection with stevedoring operations at the docks are performed by Chicago Calumet Stevedoring Company, Inc. under an arrangement with Calumet Harbor Terminals, Inc. Chicago Calumet Stevedoring Company, Inc. is a Delaware corporation.

In addition to my duties as vice-president of Calumet Harbor Terminals, Inc., I am the general manager of the operations carried on by Chicago Calumet Stevedoring Company, Inc. at the facilities of Calumet Harbor Terminals, Inc. and as such general manager, I am familiar with the problems involved in synchronizing the arrival of a vessel at her berth with the delivery of her cargo alongside for loading.

Q. Your operations really are just starting in this location.

A. No, we were the original marine terminal operators on Lake Calumet, having commenced operations in May of 1949.

Q. You have been there quite some time.

A. I joined the firm as manager January 16, 1952.

Q. You have some statistics for the year 1956.

A. I do. During the calendar year 1956, a total of 2,546 loaded rail cars of freight were handled at its facilities at Lake Calumet Harbor by Calumet Harbor Terminals, Inc. for warehousing distribution, and export. To

date in 1957 the number of loaded rail cars so handled is 2,015. With respect to origin and destination, the volume [fol. 3954] of traffic represented by those rail cars was extremely diversified. There were cars which originated at or were destined to States as far east as New Jersey, as far south as Texas and as far north as Minnesota and South Dakota. The total number of states from or to which not less than sixty rail cars were handled during this period was twelve. The number of cars in these cases ranged from sixty-five for Minnesota to two hundred for West Virginia, two hundred forty-two for Indiana, three hundred eighty-seven for Michigan, four hundred sixty-nine for New Jersey, five hundred seventy-seven for Illinois and five hundred ninety-four for Texas.

Q. These are all railroad movements.

A. These are all rail haul movements.

Q. Some of them have been rail out and water in or something of that kind, I suppose.

A. Not in this respect. This is strictly rail, in or out by rail.

The figure for Illinois does not include nine hundred ninety-three cars which were handled in switching service at the facilities of Calumet Harbor Terminals, Inc.

Excluding freight traffic which was transported by barge, the figure of 4,561 loaded rail cars represents less than fifty per cent of the total freight handled by Calumet Harbor Terminals, Inc. The balance of this freight was handled by truck.

[fol. 3955] In this connection, attention is called to the fact that the reduction of switching charges which would result from the establishment of a single line or a two-line switch and the savings in time that would be effected from the faster service available to the many industries located on the lines of the applicants which would be able to reach the Lake Calumet Harbor area directly if the applications are approved in these proceedings should encourage shippers to use the services of rail carriers in moving their goods and commodities to and from the Port of Lake Calumet.

I am advised that according to information contained in the "Directory of Industries in the Chicago Switching District" which is published in Illinois Freight Association Tariff Bureau Freight Tariff 22-C, Agent R. G. Raasch's ICC872 and Supplements thereto up to and including Supplement No. 6 effective July 1, 1957, the total number of industries in the Chicago area which are on the lines of the rail carriers which now serve the Lake Calumet Harbor area is 236, while if the applications are approved in the present proceedings, an additional 1,264 industries will be able to reach the Lake Calumet Harbor area with a single line switch move.

It is plainly evident that within the next two or three years the volume of traffic which will be handled in and out of the warehouses and marine terminal sheds and other storage facilities which have been or will be con- [fol. 3956] structed within the area under the jurisdiction of the Chicago Regional Port District will be several times greater than the present volume. The completion of the St. Lawrence Seaway in 1959 will certainly result in a great increase in the volume of export and import business passing through those facilities. In addition, the widening and deepening of the Cal-Sag Channel which is scheduled for completion in 1961, will produce a very substantial increase in the barge traffic which will be received at Lake Calumet for storage, distribution, and interchange with rail and truck carriers.

The existence of the present facilities and the prospect of future development will encourage the industrial growth of the surrounding area. These new industries in turn will require a further expansion of the existing and even the proposed facilities if they are to receive the type of transportation services which they anticipate, and require. It is imperative, therefore, that at the very beginning of this era of new development a plan and system for handling the transportation needs of the area shall be established which will assure the type of service that is expected and will provide for steady progress and expansion.

Shippers and warehousemen must have the benefit of direct line service to all parts of the country. If the services rendered to those facilities are subject to prolonged delays and the disadvantages resulting from non-competitive con- [fol. 3957] ditions, development of the entire area will be retarded. The area will find itself losing ground to competitors who will not be subject to the disabilities and disadvantages under which shippers and warehousemen in the Lake Calumet Harbor area will be laboring.

The approval of the applications in these proceedings would remove one of the last barriers to the unprecedented growth and development of the entire area.

The benefits which may be anticipated from the establishment of a single line or two-line switching charge have already been described.

In the warehousing and marine terminals business, it is of the utmost importance that an adequate supply of rail cars of all descriptions shall be available at all times. The fact that several carriers would be serving the facilities at the Lake Calumet area would provide assurance that there always would be enough cars on hand to service the needs of the operators. Even if cars should be in short supply with one of the carriers serving the area because of a peculiar seasonal demand, a surplus would be available among those carriers who were not subject to the demand.

Moreover, a special problem exists at the Lake Calumet Harbor area which can be solved satisfactorily only if sufficient rail yard storage facilities are readily available. In connection with the loading of vessels, it frequently [fol. 3958] happens that delays are encountered before the vessel arrives at berth and is ready to load. These delays are extremely costly. It is essential, therefore, that the loading of each vessel shall proceed as expeditiously as possible.

In order to avoid further delays, the loaded rail cars whose freight is to be loaded on to the vessel must be in such a location that they can be moved quickly to dockside as soon as the vessel arrives. In order to do this, the loaded

cars must be kept in a yard pending arrival from which they can be moved to the dock in the shortest time possible.

If at the time the loaded cars are interchanged with the delivering carrier, they must be stored in a yard which is two or three days' running time from Chicago, the loading and departure of the vessel will be delayed while the different cars which are destined for the vessel are located and moved to the dockside. On the other hand, under the arrangements proposed by the applicants, it will be possible to place the loaded cars in one of several yards which are located near to the Lake Calumet Harbor area at the time of receipt from the line haul carrier, and the time required to move them from the storage yard to the dock will be greatly reduced. In many cases, the arrival of the loaded cars at the dock can be made to coincide with the readiness of the vessel to load.

Furthermore, the improvement in service will not be limited to the movement of rail cars loaded for export at [fol. 3959] the Lake Calumet Harbor area. The fact that the applicants will be providing line haul services directly into the area will necessarily result in the elimination of the delays connected with the interchange of the cars between the line haul carrier and the delivering carrier.

This in turn suggests another benefit that will accrue to the general public. Since direct line haul service into the area will result in a substantial reduction of running time, the other carriers which are serving the area and competing for the business will use every resource at their command to improve their own service and promote further business. This situation will engender a healthy spirit of competition among the various carriers serving the area and is bound to result in many improvements in the services rendered to the public, shippers, warehousemen, and other operators.

Q. Mr. Levins, I am not quite clear in my recollection. I think you called my attention to some matters that were covered by Mr. Williford of the Illinois Central, did you?

A. That is right.

Q. There was something you wanted to say by way of comment on his testimony.

A. Well, I thought that Mr. Williford's testimony was an excellent presentation. I feel that he has covered the international trade situation extremely well. I could add very little to it other than to express the difficulty with [fol. 3960] which we are confronted as marine terminal operators when cars, due to delay, subject letters of credit to be canceled out. We, of course, have problems with the ship owners, who feel quite disturbed that the material did not make the holds of their vessel, and consequently they had a loss on that portion of movement, and we are also in some trouble with the shipper in so far as he feels that if he is going to order materials in to our terminals, he expects that we will see that it will get aboard ship, and we will protect him on his letter of credit dates.

Q. In your experience in marine terminal operations, you have encountered the difficulties and the situations which Mr. Williford described with regard to the letters of credit and so forth?

A. Yes, indeed.

Q. You think he fully covered it.

A. Very well.

Q. Is there any other matter that you would like to touch upon?

A. Not particularly. I am in accord with the testimony as well as the opinions spread by Mr. W. W. Huggett, who is regarded in our business as the dean of marine terminal warehousemen.

Q. "Dean" denotes age. Wouldn't you say a young man who has attained success?

[fol. 3961] A. Under proper tutorship.

Mr. Burchmore: That completes the direct.

Exam. Albus: Any cross examination?

Mr. Bordes: No cross examination by the Rock Island.

Exam. Albus: Nickel Plate?

Mr. Broker: No.

Exam. Albus: Very well. You are excused. Thank you very much.

* * * * * * *

FRANK P. SCHARFFENBERGER was sworn and testified as follows:

[fol. 3962] Direct examination.

By Mr. Davis:

Q. Would you please state your name and address?
A. My name is Frank P. Scharffenberger.
Q. Will you please state your qualifications?
A. I am freight traffic manager of the Wabash Railroad Company with supervision over freight rates and divisions, reporting directly to the vice-president in charge of traffic.

* * * * * * *

[fol. 3976] Cross examination.

By Mr. Guandolo:

Q. You stated to me that as far as the Wabash is concerned, that under circumstances similar to those presented on page 6 of your statement, would not treat its business preferentially over other lines. I am asking you why do you say that the Rock Island will do it.

A. I would say with the flow of traffic as anticipated in this area, that it would be necessary at certain periods of [fol. 3977] the year when this volume of traffic is there that it would be common sense for the Rock Island to first serve their own interests.

Exam. Albus: Would the Wabash do that?

The Witness: Yes, that is a fact. We would do that, but I believe the conditions in this area are different than a condition which might prevail at a particular point on the Wabash.

Exam. Albus: Incidentally, are you familiar with the conditions that were imposed by the Commission on the occasion of the Rock Island acquiring control of Pullman?

The Witness: I do not know about that, although I have heard it talked around the room here.

Exam. Albus: They are the usual conditions imposed in such cases by the Commission, that there will be no preference as to inbound and outbound traffic or empties or loads or anything of that kind. Do you recall those?

The Witness: Well, I discussed that the other day, and I know that there is something in the Commission's decision, I believe, which required or there was something said there to the effect that they were to offer—what I might say is desirable service. Aside from that I don't know anything more about it.

Exam. Albus: Do you have any evidence or any reason to believe that the Rock Island is not living up to those [fol. 3978] conditions or violating them?

The Witness: No, I have no reason.

Exam. Albus: All right, sir. Any further questions on cross?

Mr. Guandolo: I just have one more question, Mr. Examiner.

By Mr. Guandolo:

Q. On page 7 you make a statement that with the Rock Island serving the port exclusively it would control and be in a position to divert to its own use Wabash grain cars made empty at the port. My question again is, under similar circumstances does the Wabash engage in that practice of so-called stealing boxcars?

A. I can't say that we steal boxcars.

Q. Well, do you divert them to your own use?

A. I think we have—I am certain that we have a rather sufficient supply of grain cars; in fact, during the harvest season we have pretty well met the needs of the grain people. We had no necessity for, as you say, stealing cars.

Q. On page 6 of your statement you said that it is common knowledge that during the harvest season there is a shortage of suitable cars for grain loading. That is not peculiar to any one railroad, is it?

A. That is peculiar to Chicago, Illinois.

Q. But it is peculiar to all railroads in Chicago?

A. That is right, sir. It is particularly here in the [fol. 3979] Chicago area. Our street men, whom I contact from time to time, invariably are telling me that they are short so many grain cars.

Q. Well, it is peculiar then to all railroads in the Chicago area.

A. Well, I don't know about all railroads. I know it is with ours to a certain extent.

Q. When those occasions arise, and where you are in the singularly unusual position, do you divert cars to your own use?

A. Well, we don't divert any cars to our own use, as you put it. I say this, that we generally at the country points we serve pretty well met our needs.

Q. I am speaking of Chicago.

A. But we are from time to time short in the Chicago area.

Q. Do you divert cars to your own use, cars of other railroads?

A. To my knowledge we do not.

Q. Why do you say that the Rock Island will do that?

A. Well, we feel that with such an abundance of traffic that there will be shortages created, and it would be the inclination on the part of a line to take those cars when they are made empty. I think that that happens in some areas in the peak seasons of the grain movement.

* * * * * * *

[fol. 3980] Redirect examination.

By Mr. Osmond:

* * * * * * *

[fol. 3981] A. I do know that cars in different terminals may be used by other than owner lines.

Mr. Osmond: That is all I have.

Exam. Albus: Mr. Davis.

By Mr. Davis:

Q. On page 6 of your statement where you referred to preferred and coordinated handling about which Mr. Guandolo questioned you, when you used the words "coordinated handling," did you have in mind that perhaps a line such as the Rock Island, in this case, would have its schedule set up to particularly meet its own demands for service of its line haul traffic to the port area?

A. I would have to say that is correct; that is my meaning there.

Mr. Davis: That is all.

Exam. Albus: That was one of the things covered by the conditions imposed. If he says that, it is contrary to what he said before.

Mr. Davis: Well, he is not making any accusation—

Exam. Albus: That is exactly the point I want to make. There is nobody being accused here as to a violation of those conditions.

Mr. Davis: We don't accuse Rock Island of having violated conditions imposed in any other proceeding.

The Witness: I did not make any such statement in my testimony.

* * * * * * *

[fol. 3985] Harold R. Sampson was sworn and testified as follows:

[fol. 3986] Direct examination.

By Mr. Osmond:

Q. Will you state your name and position?

A. My name is Harold R. Sampson. My position is that of vice president—traffic of the Chicago & Eastern Illinois

Railroad Company with headquarters at 332 South Michigan Avenue, Chicago 4, Illinois.

• • • • • • •

[fol. 3989] Cross examination.

• • • • • • •

[fol. 3990] By Mr. Guandolo:

Q. You are not accusing Rock Island of violating any conditions prescribed by the Commission in the Pullman acquisition case, are you?

A. No, not by any means.

Q. You have no reason to believe that the Rock Island has [fol. 3991] violated any conditions in that proceeding?

A. None.

• • • • • • •

[fol. 4005] PHILLIP M. CORBY was sworn and testified as follows:

Direct examination.

By Mr. Stuppi:

Q. Will you please identify yourself and proceed with your prepared testimony?

A. My name is Phillip M. Corby. I reside in Topeka, Kansas. The C-G-F Grain Company which I represent as general traffic manager owns and operates six terminal elevators for the storage of bulk grain. Our elevators are located at Lincoln, Nebraska; Salina, Kansas; Wichita, Kansas; Atchison, Kansas; Topeka, Kansas; and Fort Worth, Texas. We have an aggregate storage capacity in excess of eighty-two million bushels.

A large percentage of the grain in store is owned by the government and controlled by the Commodity Credit Corporation. During the course of a year we ship and receive [fol. 4006] thousands of carloads of bulk grain. Naturally, our largest inbound business takes place during wheat

harvest when the grain moves from farm to country elevator to terminal elevator. This is the critical time of the year when there must be an adequate car supply for all railroads and country elevators, as well as terminal elevators. However, it is a historical fact that during the past several harvests there has developed an acute car shortage. During the spring and quite often carrying into harvest season the Commodity Credit Corporation tries to move grain from the terminal elevators in the grain producing areas to export, or other areas so that the new grain can be taken into storage. This throws a further strain on the already tight supply of cars.

These facts bring me to express a few views concerning the petition of the Belt Railroad Company for rights into the Lake Calumet Port area. I foresee the day when, with the St. Lawrence Seaway opened, the Lake Calumet Port area could become one of the more important ports for the loading of grain from all of the major producing areas. With this a reality there will be hundreds of carloads of grain arriving in a short space of time. In my opinion, this will make an unmanageable condition for the railroad which now serves the port exclusively. That railroad, if its monopoly is permitted to remain, will have cars sent to it from all the roads and with the limited yard and facilities of one road there will rapidly develop a jam of [fol. 4007] cars. This will delay the turnaround time of cars and could quite possibly result in an embargo of the port.

I feel that if the Belt Railroad Company also were allowed to serve this area, this would give added yards and facilities to handle the business. Also, being a neutral carrier they would give equal service to all lines. They would also make more of an effort to get the empty cars back to the owner roads so they could be rushed back to the country points where they are needed. Two of the owner lines of the Belt Railroad Company account for thirty per cent of our grain. We are interested in these roads having a good supply of cars at all times. We feel that if they were

able to serve this area through the Belt Railroad Company they would be more able to control the routing of empty cars back to the point of need in the country.

Q. You testified that you have a storage capacity for 82,000,000 bushels of grain. Have you any plans for enlarging that capacity?

A. Yes, we have. We are in the process now of adding about 2½ bushel storage to one of our elevators.

Q. How many boxcars does 82,000,000 bushels translate into?

A. At the very minimum it would be 41 or 42,000.

Q. You said a large percentage of the grain was owned by the government. Do you know roughly what that percentage is?

A. At least 99 per cent, probably 99½ per cent.

[fol. 4008] Q. How much of that grain is for export?

A. All of it.

Q. You testified you ship and receive thousands of carloads of grain. How many carloads of grain have you shipped and received this year so far?

A. Well, from the first of January through August of this year we have handled 26,697 boxcars.

Exam. Albus: Is that all for export?

The Witness: No, that is both inbound and outbound. That is the number of cars that we have handled.

By Mr. Stuppi:

Q. When you said you were interested in the Belt Railway gaining entrance to Lake Calumet, I presume you meant the Belt Railway of Chicago, is that right?

A. Yes.

Q. Which two owner lines of the Belt did you have in mind when you testified that they account for 30 per cent of our grain?

A. The Santa Fe and the CB&Q.

Q. The grain that is exported by the government and which you handle is exported through what ports?

A. Gulf ports.

Q. Have you an opinion whether any of that Gulf export grain would be diverted to Chicago upon the completion of the St. Lawrence Seaway?

A. I personally feel that most of that grain will be [fol. 4009] diverted to the port area here for export rather than Gulf, due to the freight rates.

Mr. Stuppi: That is all.

Exam. Albus: Any further direct?

By Mr. Chartrand:

Q. Mr. Corby, is your company engaged in the buying and selling of grain for their own account?

A. It is very limited. The men who own our company don't want our managers speculating. We are not allowed to own at any one time over 20,000 bushels of grain.

Q. Then you are primarily in a storage business?

A. Storage business.

Q. For others? Do you store grain for any members of the shipping public other than Commodity Credit?

A. Oh, yes.

Q. If upon instruction you were asked to forward that for export, it would be important in your public warehouse position that Chicago would be an outlet for you as Lincoln, for example, and there is a dependency of your company upon Chicago as a free outlet or port for export grain.

A. Yes.

• • • • • • •

[fol. 4010] Cross examination.

By Mr. Dwinell:

Q. Who serves you at Lincoln? What railroad serves you at Lincoln?

A. We are located on the tracks of the Burlington. We have reciprocal switching with all the other railroads that serve Lincoln.

Q. So you have service of all railroads through reciprocal switching.

A. Yes.

Q. Who serves you at Salina, Kansas?

A. We are on the Santa Fe.

Q. The same situation—

A. We have reciprocal switching at each place.

Q. Wichita, Kansas.

A. We are on the Missouri Pacific.

Q. At Atchison, Kansas.

A. We are on the Missouri Pacific.

Q. At Topeka, Kansas.

A. The Union Pacific.

Q. Fort Worth, Texas.

A. FWD, Fort Worth and Denver.

Q. Where is your largest elevator?

A. Wichita, Kansas, 20,000,000 bushels.

Q. I kind of lost track. Which railroad was that?

A. On the Missouri Pacific.

Q. As to all these places of reciprocal switching?

[fol. 4011] A. Yes.

* * * * * * *

[fol. 4014] E. F. MOBERG was sworn and testified as follows:

Direct examination.

By Mr. Cubbage:

Q. Will you please state your name and address?

A. My name is E. F. Moberg of Omaha, Nebraska.

Q. What is your present position?

A. Executive vice president and secretary to the Omaha Grain Exchange.

* * * * * * *

[fol. 4018] Q. Is it your opinion that this Calumet Port area will develop to any great extent?

A. We have considered the St. Lawrence Seaway and the Calumet Port area at length in our town, and I especially

have given particular interest to it because of the fact that I was chairman of the river-rail development committee of the mayor's planning committee of Omaha, which was a subcommittee, and we went extensively into the potential of the St. Lawrence Seaway, and I have given it careful study. Our board of directors, for which I serve as secretary, have on numerous occasions given thought to the St. Lawrence Seaway and the potential it has for the grain-producing area of Nebraska and surrounding territory, and we are of the opinion that when the port is developed to the extent that the drafts can be made by the larger boats, that it will take away from the Texas and New Orleans ports the export business that is now going that way.

Q. With reference to the matter of advantages as between shippers that have been considered from time to time, since certain elevators in your area are on the Rock Island and now have the benefit of the single line service to the Calumet Port, would shippers from elevators on other railroads, such as Burlington, have an interest in improved service via the Belt as proposed in this application in order [fol. 4019] to be more competitive?

A. Yes, they would, by reason of the fact that when export shipments are made a lot of grain is earmarked for export at a port of exportation, and the grain is drawn from other elevators. In other words, the Commodity Credit Corporation, as an example, would issue a loading order to an elevator—I think you made the comparison of Rock Island and Burlington—to an elevator located on the Rock Island. They will also issue an order to an elevator or issued on the Burlington Railroad. It is paramount that those shipments get to a port of exportation at about the same time.

Q. In other words, this would help remove the present inequality, in fact, in effect.

A. The application of the Belt Railroad I think would, yes.

Q. Ordinarily how is grain sold, fob origin or destination?

A. Well, of course the preponderance of the grain now is in the hands of the government, Commodity Credit Grain

Corporation, export shipments. However, there are at times some commercial transactions of grain for export. In a lot of cases they are sold fob port of export.

Q. So it would be the responsibility of the shipper.

A. In those cases, yes.

Q. To what extent would you regard it as important to have the best possible service to prevent spoilage and deterioration of the shipments?

[fol. 4020] A. Well, as I stated before, we are one of the few markets in the country where the grading and sampling, inspection of grain, is made by a private organization, which is the Omaha Grain Exchange. In most localities it is done by state organizations, such as Kansas City and Chicago here. We are naturally proud of giving good grades to grain because we have standards under which we work. Grain is graded at points of loading, and it would be graded in the case of Chicago in Chicago by a state department. Corn, as an example, is a delicate commodity when it comes to weather, handled in a boxcar. Moisture content and the danger of corn going out of condition because of heat, especially in very hot weather, condensation sets in, and service is paramount from that angle because, if a carload of corn is in transit a period of six or seven days, and it is heating and going out of condition, there is danger.

Q. In general do you regard service by more than one railroad to an elevator advantageous?

A. Yes, I do. In the case of the three elevators on our river track, while one line does the switching, they have the benefit of drawing from cars from the three lines that serve the elevators.

Q. I believe you stated that the Omaha area had a capacity of 29,000,000 bushels.

A. That is the Omaha market.

[fol. 4021] Q. Would you not consider the 13,000,000 capacity to a projected 20,000,000 capacity in this port area as a rather large amount?

A. I do, yes.

Q. In contrast to what would you say is about the average size of the elevator in your area?

A. Well, the average size elevator in our area is 2,000,000 bushels, one million and ½ to two million bushel capacity.

Q. Do you have anything further to add?

A. That is all.

Exam. Albus: Any further questions on direct?

By Mr. Chartrand:

Q. Mr. Moberg, do you consider Omaha as being within the scope of territory tributary to Chicago in so far as export purposes is concerned?

A. I do, yes.

Q. Would that extend itself farther west of the Omaha market into Colorado and then into—then north into South Dakota?

A. Definitely, yes.

Q. Do you receive in the Omaha market grain from South Dakota and Colorado?

A. We receive grain from South Dakota and Colorado along with eleven other states.

Q. The elevators that you have at Omaha, are they public houses?

A. The elevators are public houses, licensed and hold [fol. 4022] themselves out for storage of grain.

Q. For anybody or any member of the shipping public who might want to utilize their services.

A. That is true.

Q. When an elevator operator takes that grain in for storage, he doesn't know where the owner thereof might ultimately want to go.

A. No, he doesn't know where the owner of it will ultimately go because, as I say, the preponderance of it in storage is the Commodity Credit Corporation grain now.

Q. But you hope some day to get back—

A. I hope we get to free enterprise some day.

Q. You indicate some pretty small figures in so far as the last year or so. Is that due primarily because of the drought conditions in your area?

A. Partially to the drought condition and partially to truck competition in the handling of coarse grain.

Q. How do the crops look this year?

A. Excellent.

Q. What is your opinion, as one who has observed closely the movement of grain throughout the midwest, as to a diversion in the flow of grain from Nebraska and South Dakota and Colorado to Chicago as compared to the Texas ports where it has been moving for years?

A. The export grain, when the Port Calumet area is [fol. 4023] developed and the St. Lawrence Seaway completed, I look for quite an influx into the Chicago market for export.

Q. Chicago will be your closest port.

A. It will, yes.

Mr. Chartrand: That is all.

Exam. Albus: Any further direct testimony?

(No response.)

Exam. Albus: Cross examination, please.

Cross examination.

By Mr. Guandolo:

Q. To which Gulf ports are you tributary?

A. We have exported through Houston and Galveston and even Port Arthur and New Orleans, and on one occasion I remember a movement to Mobile, Alabama.

Q. During the course of your direct examination you mentioned the fact that the Burlington served seven grain elevators, and as I recall, the North Western served five elevators, the IC served one, Milwaukee served one, and the Great Western served one, and the Rock Island served three in conjunction with other railroads.

A. Yes.

Q. In so far as the Burlington is concerned, does it serve the seven grain elevators of which you speak exclusively?

A. No. I mentioned that the three elevators that are served jointly by the Rock Island were also served by the Burlington and the North Western.

[fol. 4024] Q. What about the seven that are served by the Burlington?

A. Four of those are served exclusively by the Burlington Railroad, and three of them are in this joint operation that I mentioned.

Q. I see, the joint operation with the Rock Island.

A. Yes.

Q. What about the five served by the North Western?

A. Three of those are in this joint operation.

Q. And two are served exclusively.

A. Exclusively, yes.

Q. And the IC?

A. The IC is an exclusively served.

Q. The Milwaukee?

A. The Milwaukee is exclusively served.

Q. And the Great Western?

A. Is exclusively served.

Q. Are those public elevators?

A. They are, yes.

Q. I take it that they are primarily storage elevators.

A. No, we are a merchandising market. They do take in storage grain, but the intentions of a terminal market are to merchandise as much grain through those elevators as possible.

Q. Could you tell me this, what is the average turnover of all of the elevators combined?

A. I couldn't tell you.

[fol. 4025] Q. Per year.

A. I couldn't tell you.

Q. You spoke of the need for Belt service into Chicago switching district. Exactly what will this service by the Belt consist of, can you tell me?

A. Well, the Belt Railroad service into the port area serving the port track will make traffic more fluid, more flexible, into the elevators in the port area, by reason of the fact that it has been my experience and observation, throughout the years, that the exclusive service by one railroad seems to tie up equipment, and it also has a tendency during peak movements to back up boxcars, and while two or more or three railroads are serving a plant, there is more fluid, more flexible operation.

* * * * * * *

[fol. 4040] GILMORE F. JENNINGS was sworn and testified as follows:

Direct examination.

By Mr. Osmond:

Q. Will you give the reporter your name and the name of the company with whom you are associated?

A. Gilmore F. Jennings, Lauhoff Grain Company, Danville, Illinois.

Q. What is your position with the Lauhoff Grain Company?

A. I am traffic manager.

Q. How long have you been associated with the Lauhoff [fol. 4041] Grain Company?

A. For the past 15 years.

Q. Will you tell us where the Lauhoff Grain Company maintains plants?

A. In Danville, Illinois, at Crete, Nebraska, and Geneva, New York.

Q. What railroad or railroads serve your plant at Danville, Illinois?

A. The Wabash, Crete, Nebraska, is the CB&Q. Geneva, New York is the New York Central.

Q. Are all of those plants open to the reciprocal switching?

A. Yes, they are.

Q. Will you tell us something about the nature of the business of the Lauhoff Grain Company?

A. At Danville there is a corn mill. We process corn, make products for the breweries, for foundries, especially the automobile industry foundries, hominy feed, which go to feed mixers, corn meal, primarily goes for export, and we also operate a soybean mill at Danville, and we have two products, soybean meal and soybean oil. Crete, Nebraska is a very similar operation, but we do have a mix feed plant there. Geneva, New York is a corn meal operation.

Q. You mentioned your export business.

A. Yes, sir.

Q. Without going into any trade secrets at all, can you [fol. 4042] tell us first through what ports these products are exported?

A. Normally we export through Mobile and New Orleans. We have used the Lake Calumet Port on a few shipments.

Q. What about import traffic, do you have any import traffic?

A. We have no import traffic.

Q. As a result of the development of the St. Lawrence Seaway, do you foresee any shift in the movement of your export traffic in the foreseeable future?

A. Yes, I do. We store a lot of grain for CCC at Danville, and we reship—at times it is shipped as a commodity or grain product. Other times it is shipped as grain. It may go for export, it may go for domestic use. When the grain is put in the elevator we have no idea where they might want it to go, so we get involved in the export, and those export shipments normally move to the Atlantic Seaboard ports. I think that the completion of the St. Lawrence Seaway is going to be something tremendous, and I believe it will be tremendous and far more than I can foresee at this time. It should give us an outlet and a new market for a lot of our products. I can even foresee where we ship hominy feed into New England and trunk line territories

to feed mixers, that there is a possibility it could also move by water to a certain extent. We do run into occasional export shipments. Those a great many times are placed with us by brokers, and then of course we wouldn't know too many times just where they will go. Some of [fol. 4043] them have gone up into Newfoundland; they have gone to the Netherlands; there has been oil that we have shipped, soybean oil and corn oil, that goes for export also.

Q. Have you ever experienced any difficulty in your operations arising from any labor troubles on an individual railroad?

A. Yes, sir. We had a sad experience here a few years ago with a work stoppage on the particular carrier that serves our industry.

Q. Which industry?

A. At Danville. We were completely tied up in so far as bringing cars in and out. Fortunately we could truck stuff to one Danville carrier close by. The other is across town. Not only is that expensive but practically puts you at a standstill.

Exam. Albus: What railroad was it?

The Witness: The Wabash.

By Mr. Osmond:

Q. Have you experienced any difficulties in obtaining an adequate car supply?

A. This particular year there is no—we have had very little difficulty with quantity. Quality is a very sore subject with people in our industry. Years pass, for last year, the preceding year, we have had extremely difficult times.

Q. As I understand then, your interest in this Lake Calumet Port development is based in part, at least, upon a possible shift of some of your export tonnage from ports [fol. 4044] which is now moving to the Port of Chicago?

A. That is right. We have had several shipments move through there, and I think there is a great possibility there

will be more and more as time goes by and the facilities are expanded.

Q. Are you familiar, at least in a general way, with the issues which are involved in this particular proceeding?

A. If I understand it correctly, it is served by one line.

Q. The Lake Calumet Port.

A. Yes, and we are primarily concerned here with having more than one carrier. To my way of thinking, a business and an economy that has been built in this country on competition, we should certainly have competition here. Competition is good for all of us.

Q. Do you visualize that during the heavy grain shipping season, at least, the possibility of cars being backed up at the Lake Calumet Port?

A. It is my understanding it has happened at other ports, and I don't see why this should be any exception to that.

Q. Do you feel that if several lines are permitted to serve the port, that that will tend, at least, to alleviate periods of congestion?

A. I think so. It would give alternate—give an alternate means of reaching the port rather than just through a single carrier, which to my way of thinking is only good, sound logic.

[fol. 4045] Mr. Osmond: That is all the questions I have.

Mr. Chartrand: No questions.

Exam. Albus: Cross examine, please.

Cross examination.

By Mr. Guandolo:

Q. You said you had reciprocal switching at all of your plants, is that right?

A. Yes, sir.

Q. Are you satisfied with that service at those plants?

A. I wish you could see me sometimes.

Q. All right.

Exam. Albus: What is the answer?

Mr. Osmond: Expand that, please.

The Witness: Well, the thing is yes, at times it is all right. Other times it is miserable. I had a very sad experience here as recently as Monday of this week. At those times there has been talk of another carrier coming in our plants over the years, and that is the morning you certainly wish they could have been there. That is not the general rule, of course.

By Mr. Guandolo:

Q. Generally speaking.
A. Generally speaking, yes; yes.
Q. It is good?
A. Yes.

* * * * * * *

[fol. 4051]

October 4, 1957

* * * * * * *

R. V. Cearfoss was sworn and testified as follows:

Direct examination.

By Mr. Shinn:

Q. What is your name, sir?

A. My name is R. V. Cearfoss. I am a Freight Traffic Officer (Analysis) in the Freight Rate Service Branch, Special Services Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington, D. C. I [fol. 4052] have had thirty-eight years traffic and transportation experience, including the preparation and presentation of rate exhibits and other data before the Interstate Commerce Commission and other regulatory bodies. I am generally familiar with the issues involved in these proceedings.

The U. S. Department of Agriculture has a dual interest in these proceedings:

First, The Secretary of Agriculture is authorized and directed by the Agricultural Marketing Act of 1946, Sec. 203(j), 7 U.S.C. 1622, to:

"assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautics Board, or other Federal or State transportation regulatory body with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers."

Additionally, the Secretary desires to foster a prosperous agricultural community, by developing a sound, efficient, and privately operated system for distributing and marketing agricultural products in accordance with the Congressional Declaration of Purpose in the Agricultural [fol. 4053] Marketing Act, supra, Sec. 202.

Secondly, the Secretary of Agriculture as a shipper, has a substantial interest in having adequate port facilities available for possible exportation of government-owned products of agriculture, principally grains. As a substantial shipper of grain, improvement of transportation facilities, including port facilities, is encouraged in order to achieve orderly and economical through transportation to overseas destinations.

In accordance with the Secretary's responsibilities, the practicability of achieving more economical transportation for the products of agriculture through the St. Lawrence Seaway has been a matter of serious consideration.

To show the potential impact of grain movement through the Port of Chicago, we have shown in Appendix "B"—

Exam. Albus: That is Exhibit H-63, included as part of Exhibit H-63. Appendices A, B, and C are H-63 for identification.

The Witness: —the total production of wheat and corn in the United States as compared with the area of the

seven states of Indiana, Illinois, Iowa, Missouri, Kansas, Nebraska, and Colorado. This producing area, by its close geographical location to the Port of Chicago, and with lower inland grain rates than to other ports, indicates that a very substantial quantity of grain will be exported [fol. 4054] through the Port of Chicago, and with lower inland grain rates than to other ports, indicates that a very substantial quantity of grain will be exported through the Port of Chicago. It will be noted this area represents 43 per cent of the total wheat production and 51 per cent of the total corn production in the United States for 1956.

These substantially lower inland rates to Chicago can be readily seen by analyzing Hutchinson, Kansas, a representative origin in the center of the largest producing wheat state, and Des Moines, Iowa, a representative origin in the second largest corn-producing state. The rates to representative Atlantic and Gulf ports are as follows:

	Chicago	*Export via New Orleans*	*Export via Baltimore*
Hutchinson—Wheat	65.5	71.5	98
Des Moines—Corn	41	67.5	73.5

Tariff Authority for above rates shown below:

AT&SF ICC 14665, 14774: CFA ICC 4403; CMStP&P ICC B-7626, B-7687; WTL ICC A-4179

This comparison indicates a rate advantage of Chicago under New Orleans of 6 cents per 100 pounds on wheat shipped from Hutchinson, Kansas. On corn, the rate advantage on shipments from Des Moines, Iowa is 26.5 cents per 100 pounds Chicago under New Orleans. Further, on shipments from origins east of Hutchinson and Des Moines, [fol. 4055] the rate advantage is more pronounced in favor of Chicago. With respect to north Atlantic ports, the rate to the lowest-rated port is uniformly 32.5 cents per 100 pounds over Chicago on both wheat and corn.

To demonstrate the substantial amount of grain that ordinarily moves from the heavy grain producing areas,

we have also shown in Exhibit H-63 the exports of the various grains through the north Atlantic and Gulf ports during 1955. For example, 1,720,561 short tons of wheat moved to north Atlantic ports in 1955. Furthermore, much grain moves to destinations in market areas that could economically utilize the St. Lawrence Seaway water route when such use would result in a lower total transportation charge than over present routes.

It is not our desire herein to express preference for or prejudice to any port or seaboard geographical area. These figures are designed only to show the extent of grain exports through port areas mentioned. Obviously, a substantial quantity of this grain originated in the producing area heretofore defined and will be susceptible in the future upon opening of the St. Lawrence Seaway to movement through the Port of Chicago.

The quantitative flow of American wheat to continental areas for the crop year July-June 1955-56 is shown in Exhibit H-63. This table complements Exhibit H-63 by [fol. 4056] showing destination on a percentage basis and by the port areas. The Atlantic Coast area includes south Atlantic ports but the movement through the latter ports is negligible. It will be noted the largest tonnage through the Atlantic and Gulf Ports was to Europe. Stated in another manner, 87,952,000 bushels, or 2,638,500 short tons were exported to Europe through Atlantic Coast ports and 60,375,000 bushels, or 1,811,250 short tons through Gulf ports to same destination area. Out of total of 216 million bushels of wheat exported through Atlantic and Gulf ports over 148 million bushels or 69 per cent was destined to Europe.

In summary, this statement shows that Chicago lies in close proximity to the major grain-producing states; that inland transportation rates to Chicago from such origins are favorable; and that Europe is a substantial market area for such grains. Thus it is reasonable to believe that

if suitable port facilities are available a substantial quantity of grain will tend to move for export through Chicago.

There are additional factors, of course, that support the supposition that Chicago will be a major port for the export of overseas grain. Most western railroads serving the midwest grain-producing states terminate in Chicago, which, additionally, have very extensive switching and classification yards.

It is expected that grain producers will, in general, de- [fol. 4057] rive benefits from reduced costs of marketing grain. Increased consumption of domestic grain by consumers might be expected to result when the grain can be marketed abroad at a reduced price.

Should a substantial quantity of grain be exported through the Port of Chicago, expansion of all port facilities and additional rail service into the Lake Calumet Port area will be desirable and in the interest of grain producers and shippers to accommodate heavy traffic, not only during the season of navigation on the St. Lawrence Seaway, but for storage of grain in present public facilities as well as those that might be constructed in the future for reshipping to other ports during the close of navigation.

The benefits that should accrue to grain shippers as a result of the favorable location of Chicago with relation to producing areas and foreign markets could be nullified if insufficient transportation facilities to the dock side for large volumes of grain are not available. Transportation arteries of suitable size, in the form of feeder railroads to the dock area are essential. Service by one railroad does not appear adequate for a major port. We make this statement without prejudice to or preference for any carrier or combination of carriers.

Therefore, to insure, insofar as possible, that the movement of grain for export is not limited by lack of terminal [fol. 4058] rail facilities, the Secretary supports these applications for trackage and trackage rights, to serve the Lake Calumet Port area.

Exam. Albus: Do you have anything further to add to that?

The Witness: No, I believe not.

By Mr. Shinn:

Q. You heard the testimony of certain substantial elevator operators that a large quantity of Commodity Credit Corporation grain was stored in their elevators, and is it not true that this grain may possibly be exported to the Port of Chicago upon the opening of the St. Lawrence Seaway?

A. That is correct.

Mr. Shinn: I have nothing further.

Mr. Chartrand: May I ask a question?

Exam. Albus: Yes.

By Mr. Chartrand:

Q. Are you making this statement as authorized by the Department of Agriculture, and particularly by the Secretary of Agriculture in behalf of the Department?

A. Yes, sir.

Exam. Albus: Any cross examination?

Cross examination.

By Mr. Dwinell:

Q. What does Mr. Benson know about your appearance here today and what you were going to say?

A. That is always discussed beforehand. We have cer- [fol. 4059] tain authorities, of course, through our division chief. It is always taken up with the Secretary's office.

Q. What information does Mr. Benson have on this matter as to your testimony and what you are saying here today?

A. I believe he has a copy of it.

Q. What?

A. I think he has a copy of it.

Q. Well, I am asking, what information does he have. Mr. Chartrand asked if you were here today testifying as you are by authority of the Secretary of Agriculture. That is Mr. Benson.

Mr. O'Brien: Mr. Examiner, I submit he answered his question. He said he has a copy of the testimony.

Mr. Dwinell: He says probably he has a copy.

The Witness: Now whether his administrative assistant has it and hasn't passed it on to him, but we are under the Special Service Division, and we are the ones authorized to appear in litigation matters, and of course it is assumed that the division chief would pass on to the administrative office in the Secretary's office all matters dealing with litigation.

By Mr. Dwinell:

Q. Then you did not intend to say in response to the question as to your authority to appear that the Secretary of Agriculture actually knows what you are saying here today and has authorized you to say it.

[fol. 4060] A. Well, I don't mean to say that he has worked up this information.

Q. I didn't say that.

A. All these requests for us to appear in this proceeding have come through the administrative office of the Secretary.

Q. But the question was a personal question, as I understood it, that the Secretary of Agriculture in person has authorized you.

Mr. Shinn: Do you know how many employees of the—

Mr. Guandolo: Wait a minute.

Exam. Albus: Let him ask the question first.

Mr. Dwinell: I have a right to finish.

By Mr. Dwinell:

Q. You did not imply or wish to imply that Mr. Benson personally knows about this.

A. No, I did not.

Q. All right.

What inspections have you made of the grain handling facilities elsewhere in the United States to determine the supporting railroad facilities for these export elevators?

A. I think my testimony will show it is assumed to be a large tonnage of grain moved through the Port of Chicago, and I know of no large export city served by one railroad.

Q. That is not responsive to my question. Would you read the question, please.

(The question was read.)

[fol. 4061] The Witness: You mean personal inspection?

Mr. Dwinell: Yes.

The Witness: I made no personal inspection.

By Mr. Dwinell:

Q. Have you inspected these facilities?

A. No, sir.

Q. Have you inspected the facilities of the Rock Island Railroad?

A. No, sir.

Q. Have you inspected the grain exporting facilities of any port?

A. I am not familiar with the grain export, but I have worked around New York City and Baltimore. I know the general arrangements used in the exporting of commodities generally.

Mr. Shinn: Mr. Examiner, I submit that in his direct testimony he did not extensively undertake to analyze the mechanical means of exportation of grain through individual ports. His testimony served only to indicate the

origin of the grain and the market areas through which it normally flows.

Mr. Chartrand: Mr. Examiner, I submit that this is a statement of general policy of the Department of Agriculture which they have stated in many cases as to their position with regard to an application of this kind and should be accepted as such without being the individual conclusion or opinion of this witness.

[fol. 4062] Exam. Albus: That may be so, but still the opposition has a right to cross examine.

You may proceed—as to the basis for the statement.

By Mr. Dwinell:

Q. Let us take Baltimore. How many grain elevators are there in Baltimore handling export traffic?

A. I don't know the exact quantity. I know there are some at Locust Point and some at Point Covington. I imagine there are some at Canton.

Q. What was the first place you mentioned?

A. Port Covington.

Q. What railroads serve those elevators?

A. Western Maryland.

Q. Only one railroad?

A. Yes, only one railroad. They are private facilities.

Q. And how many elevators are there at the next place?

A. Locust Point. That is Baltimore and Ohio property. In other words, all of the Atlantic Seaboard elevators, I understand, are railroad property.

Q. Served by only one railroad for each facility.

A. As a rule, yes. I understand that there are in the City of New York—the Port of New York Authority has a grain elevator.

Q. What railroad serves that?

A. I don't know for sure.

Q. Only one railroad serves it?

[fol. 4063] Mr. O'Brien: He said he wasn't sure.

Exam. Albus: He doesn't know.

By Mr. Dwinell:

Q. Is service adequate through that elevator?

A. I couldn't say.

Exam. Albus: If you don't know, just say so.

By Mr. Dwinell:

Q. Is service adequate at the three locations of Baltimore?

A. I have not received any complaints.

Q. You say you have worked around there. Is it adequate or inadequate.

Mr. O'Brien: I submit he has answered, Mr. Examiner.

The Witness: I don't know.

Mr. Dwinell: Just a minute.

Mr. O'Brien: I am raising an objection, which I have a right to do. May I finish?

Exam. Albus: Yes.

Mr. Dwinell: Yes.

Mr. O'Brien: I submit he has answered the question. He doesn't know. He said he has no complaints, and counsel is trying to press him for it, and I am objecting to it.

Exam. Albus: I think the record will show that he did say he doesn't know.

Mr. Dwinell: As I understand, this witness is the witness of the Department of Agriculture.

Exam. Albus: That is correct.

[fol. 4064] Mr. Dwinell: To how many objections to my line of cross examination am I to be subjected?

Mr. O'Brien: As long as we have an interest in here as an applicant, we certainly have the right to object to any question you might propound.

Exam. Albus: Let us proceed. The objection has been taken care of. If it hasn't, it has been overruled now. Go ahead. Proceed.

By Mr. Dwinell:

Q. So what you are expressing now is a policy—I will have to withdraw that, because those words were put in your mouth.

Mr. O'Brien: I ask that the record be stricken—that that remark be stricken from the record.

Exam. Albus: It may be stricken.

By Mr. Dwinell:

Q. Did you state awhile ago that you were here solely for the purpose of expressing the general policy of the—

A. General policy, yes, sir.

Q. On what is that general policy based? On experience at what elevators and at what ports?

A. Well, that is experience throughout the United States, I mean, a policy matter.

Q. Based on what actual concrete situations?

A. Yes.

Q. Well, based on what? What are the actual basic situ- [fol. 4065] ations on which the broad policy is based?

Mr. Shinn: Mr. Examiner, I submit that the exhibit speaks for itself, his testimony speaks for itself, as to the nature of the basis of his conclusions, the origins of the grain, destinations for the grain and origin of movement. To us it is self evident.

Exam. Albus: I agree with you, but I will permit him to answer.

The Witness: The policy matters go beyond transportation matters. In other words, it is a question of contracts, storage, various price subsidies and soil conservation and what not. The general program or policy, of course, is outside of the transportation department. We only come into the picture in so far as transportation.

By Mr. Dwinell:

Q. Yes, and I am talking about your transportation policy of the Department of Agriculture. That is all I am talking about.

A. The transportation policy of the Department of Agriculture is no different from any other shipper or receiver of grain.

Q. All right. Let's go to page 5. There you are concrete. "Transportation arteries of suitable size in the form of feeder railroads to the dock area are essential. Service by one railroad does not appear adequate for a major port." What is the Port of Chicago?

A. At the present time I don't think it is operating only [fol. 4066] to minor capacity.

Q. My question was, what is the Port of Chicago?

A. It is in connection with the St. Lawrence Seaway, which will open in 1959. Of course all the facilities necessary for the exportation of grain haven't been provided.

Q. All right. In other words, you consider these two elevators, with any others which may be built, as the facilities of the major port, is that right?

A. In conjunction with elevators adjacent thereto.

Q. On the Calumet River?

A. The Calumet River and throughout the Chicago area and—

Q. In other words, all of the water side elevators in the City of Chicago and its environs are part of the facilities of the Chicago Port, aren't they?

A. I would say so, yes.

Q. How many other elevators are there in Chicago on water which can handle export and import traffic?

A. I couldn't answer that.

Q. Are those elevators served by one railroad, by two railroads, or how many?

A. I don't have those figures available.

Exam. Albus: That is all right. If you don't have the information, if you don't know the answer, just say so. We will make much better time that way.

By Mr. Dwinell:

Q. If those other elevators which form part of the grain [fol. 4067] export facilities of the Port of Chicago have

only one railroad serving each elevator, in your opinion is the service inadequate?

Mr. O'Brien: I object to that. He has no foundation.

Exam. Albus: The objection is overruled. It is a supposition question, and if there is only one railroad serving each of those elevators—

The Witness: You would have to take each individual elevator before I could give you a correct answer.

By Mr. Dwinell:

Q. All right. What is there about these particular elevators here which make the service of more than the Rock Island necessary?

A. It is over a wide spread area, and it is in connection with export and import traffic.

Q. It is over a wide area. What do you mean?

A. Well, I mean you are comparing that with one elevator whose location may be uptown on one single line of track.

Q. Well, how many elevators are down there?

A. Two, but the public—

Q. Are the Rock Island facilities inadequate to serve that?

A. I would say so, yes.

Q. What are they?

A. I would say one railroad could not possibly serve any extensive grain movement to world ports.

Exam. Albus: Would the volume have anything to do with it?

[fol. 4068] The Witness: Yes, very much.

By Mr. Dwinell:

Q. Then if these other elevators are going to have large export movements and they are served by one railroad only, then they are inadequately served, is that right?

A. No, I wouldn't say so.

Exam. Albus: That doesn't necessarily follow, I don't think.

The Witness: Here you only have two elevators. Of course there are going to be a lot of backup elevators. Throughout this area they have an elevator capacity of, I believe, some—I have the figures here—approximately 400,000,000 bushel capacity, the principal elevators in this seven-state area.

By Mr. Dwinell:

Q. You are going clear back now to Omaho and Kansas City and beyond.

A. Yes.

Q. What should be the facilities of the Rock Island Railroad in order to serve these two elevators?

A. Well, I think that one entry into any port for export traffic is insufficient.

Q. I asked you in what way the facilities—you are talking about tracks and everything else, I assume.

A. I assume that you only have one track leading into the port area.

[fol. 4069] Q. Would two entries into the port area help?

A. Say double tracks, but there is only one railroad into the port at the present time.

Q. Well, this is only one sector of the port, isn't it, of the Port of Chicago?

A. It is the only one sector that has been completed.

Q. But it isn't completed.

A. I mean, the Rock Island enters the west end of the port, as I understand it, and that is the only section that has facilities at the present time.

Q. What about the Calumet River? Isn't this just one sector of the Port of Chicago and one part of the grain exporting facilities of the City of Chicago?

A. That's right.

Q. And they are served by other railroads, aren't they?

A. They are served, I understand, jointly—some of them, not all of them.

Q. Some singly and some jointly.

A. That is right.

Q. You say that these particular elevators must be served by more than one?

A. Well, I mean, we are not speaking about elevators alone. You are speaking about the whole port are. In other words, for the movement of grain, exporting of grain, it is necessary to have ships, and those ships won't be in [fol. 4070] there for grain unless they come in with inbound or import traffic.

Q. Could they land their import traffic and then go back up the Calumet River and stop at grain elevators there and pick up grain for export?

A. It is possible.

Q. How much CCC grain will go through the Port of Chicago?

A. We haven't tried to estimate. The only figures that I have shown here is this immense grain area within 500 miles of Chicago. In other words, the wheat I have shown is 43 per cent of the total production of the United States, and the corn is 51 per cent.

Q. How much grain do you estimate will move through Chicago in export movement?

A. We couldn't name any figures.

Q. How much will move through these two elevators?

A. Well, I understand that they are full at the present time, and not even—

Q. I am asking you—if you have no estimate of what will move through Chicago, then you have no estimate as to what will move through these two elevators, do you?

Exam. Albus: Have you completed your answer, Mr. Cearfoss?

The Witness: Yes, I have.

Exam. Albus: All right. Is there a question pending?

Mr. Dwinell: Yes. I would like to have his estimate of [fol. 4071] the export movement of grain through these two elevators.

Mr. Shinn: Mr. Examiner, I submit that he did not testify, did not make any estimates on his direct examination regarding estimates, and his evidence served only to show the origin points—

Exam. Albus: If the witness has an estimate, he may state it, as to the amount of grain that will move through the elevators at Lake Calumet Harbor.

The Witness: Whatever estimate I may give, of course, is purely assumption, and we didn't want to make any estimate. All we wanted to show was the impact on this port from this vast producing area. Now, just what actual tonnage will be we can't say.

Exam. Albus: In other words, you didn't make an estimate of the—

The Witness: We didn't make an estimate.

By Mr. Dwinell:

Q. I would like to ask if you have ever read this document.

Mr. Bierma: What is the document?

By Mr. Dwinell:

Q. You don't have to look on the inside. You have the title.

A. Yes, I have. It is a little bit different form. I think it was consolidated with some other matter.

Q. This is entitled "Potentials of the St. Lawrence Seaway For Marketing United States Agricultural Commodi-
[fol. 4072] ties," reprinted from the Marketing and Transportation Situation 1957 United States Department of Agriculture, Agricultural Marketing Service, Washington, D.C., AMS-205." Is that document put out by the Department of Agriculture?

A. Yes.

Q. It represents the studies and the thinking of the Department of Agriculture, does it?

A. No, I wouldn't say. Somebody was hired from the outside, some professor, I believe, from the University of

Massachusetts, and it is his—of course it comes under the Department of Agriculture literature, but it is his assumption only. The other assumptions by Professor Hartley were entirely different.

Q. This was prepared by Sargent Russell, assistant professor of agricultural economics, University of Massachusetts, while temporarily employed by the Market Organization and Cost Branch, Agricultural Marketing Service, USDA. What does that mean?

A. U.S. Department of Agriculture.

Q. I would like to read you some statements from this and ask you if you agree with them.

A. I can answer that beforehand. There have been a lot of assumptions. Everybody has had a different figure of what tonnage—estimated, of course—might move through the St. Lawrence Seaway, and they have all been at variance.

[fol. 4073] Q. I am just going to ask you if you agree with these.

Mr. Shinn: Mr. Examiner, I submit that he has already answered the question, that the estimates are at variance and he does not agree with these assumptions.

Mr. Dwinell: He hasn't said that.

Mr. Broker: Has he said he didn't agree? I didn't hear that.

Mr. Dwinell: I haven't asked him with what—

Exam. Albus: He doesn't know what he is asked to agree with yet. Let us ask the question first.

By Mr. Dwinell:

Q. "This article analyzes the short-run potentials of the St. Lawrence Seaway by studying some of the physical problems encountered and the competition for shipping space among commodities. As these projected problems become realities, improvements in the route may be made and the seaway potential may continue to increase. Even with these improvements, however, it is likely that the Great

Lakes St. Lawrence route will remain primarily an inland waterway. Apparently this route will not provide lower cost transportation between the midwest and the eastern seaboard. Direct overseas shipments from the Great Lakes probably will increase. It seems unwarranted, however, to visualize immediate and material changes in existing transportation channels for agricultural products from the United States when the seaway is completed." Do you agree or disagree?

[fol. 4074] A. I don't agree with him, no.

Mr. Broker: Could I interrupt a minute? Does the Secretary of Agriculture agree?

The Witness: These reports are made by—there are any number of reports by people that are brought into the agricultural department to make a study, and they print it as is. Whether the Secretary would agree with that in face of certain other reports like Professor Hartley, I don't know. He would have to answer that himself.

By Mr. Dwinell:

Q. That is right. That is the question I was asking, whether the Secretary personally approved your coming here. Here is another one: "Many assume that once the St. Lawrence River and interlake channel improvements now under way are completed, movements via the Seaway will attract unlimited ocean shipping. But the shipping season is no more than 8 months long, and there is the possibility that the Welland Canal may become a serious bottleneck. Furthermore, the Great Lakes-St. Lawrence route with channel depths of 27 feet and many locks and its tolls will be a comparatively shallow, slow and expensive route for ocean-going ships." Do you agree with that?

A. If you read Professor Hartley's, he just—

Q. I didn't ask about Professor Hartley. I asked what you agree with.

Exam. Albus: He may quote from Professor Hartley, [fol. 4075] though, if he is going to base his agreement or

disagreement on the question. What were you going to say about Professor Hartley?

The Witness: Professor Hartley, for those locations and what he terms as shallow water will be compensated by the fact is that it will be an inland waterway, and it is not high seas.

Exam. Albus: Do you agree with what the rest of the article—

The Witness: No, I do not.

By Mr. Dwinell:

Q. You don't agree that the shipping season is no more than eight months long?

A. Yes, I agree with that.

Q. You agree there is a possibility that the Welland Canal may become a serious bottleneck?

A. That is a question I couldn't answer.

Q. But before you disagreed with everything in the statement. There is at least one statement you agree with and one that you know nothing about.

Exam. Albus: That is what he said.

What is the next question?

Mr. Dwinell: I thought he was looking for some papers for his counselor.

The Witness: I think I have a copy in a little different form.

By Mr. Dwinell:

Q. "Even with these improvements it is likely that the [fol. 4076] Great Lakes-St. Lawrence water route will remain primarily an inland waterway. The shallow channels and ports are not the only limiting factor. The route is open only seven to eight months of the year. Apparently the Great Lakes-St. Lawrence route will not provide a lower cost transportation service between the midwest and the eastern seaboard."

Exam. Albus: I think that has been read before, hasn't it?

Mr. Dwinell: That is a summary.

By Mr. Dwinell:

Q. "Despite this, it is a valuable transport artery for bulk commodities such as iron ore, coal, petroleum, and grain. Direct shipments between the Lakes and the ocean will not be new, but this route will play a growing part in transportation for both Canada and the United States. It seems unwarranted, however, to visualize immediate or radical changes in existing channels of trade for agricultural products from the United States. Over a longer period, however, changes in this respect may be significant. If the Seaway potential is increased under the pressure of larger cargo movement, existing channels of trade for United States agricultural products, including location of processing facilities, may gradually shift." Do you agree with that, in part or in whole?

A. I don't agree with him entirely. The fact is, he claims [fol. 4077] that there is a certain movement now, but there is no grain movement, I understand, that is exported through Chicago. If there is, it is limited quantities. We can expect exportation of grain from the Port of Chicago. To what extent, I wouldn't estimate.

• • • • • • •

[fol. 4091] JOHN M. TRISSAL was sworn and testified as follows:

Direct examination.

By Mr. O'Brien:

Q. Will you state your name, address, and occupation, please?

A. John M. Trissal, living in Floosmoor, Illinois, employed as chief engineer of the Illinois Central Railroad.

Q. Is one of your duties as chief engineer to cover the negotiation of contracts that have to to with trackage layouts and property of the Illinois Central?

A. Yes, sir.

Q. Did you engage in negotiations with the other applicants herein to draw up a lease arrangement to present to the Chicago Regional Port Authority?

A. I did.

Mr. O'Brien: I have passed out the proposed lease agreement the other day to afford the protestants an opportunity —interveners, I should say—an opportunity to examine [fol. 4092] that. May we have a number on it now?

Exam. Albus: Is that the one dated September 5, 1957?

Mr. O'Brien: That is right.

Exam. Albus: The proposed lease agreement will be marked for identification H-64.

(Exhibit No. H-64, Witness Trissal, was marked for identification.)

By Mr. O'Brien:

Q. The form of the proposed lease agreement, marked H-64, covers all the tracks owned by the Chicago Regional Port District, does it not?

A. It covers all the tracks owned by the Chicago Regional Port District subject to the leases or contracts which the Port District has with the Chicago, Rock Island & Pacific and with the PB&W Railroad.

Q. Is it your understanding that all the applicants in these proceedings will have rights to operate over all the tracks owned by the Port District to serve all industries, elevators, et cetera, located on the tracks owned by the Port Authority?

A. It is.

Q. The form of the lease contemplates signatures of all the applicants to these proceedings. In expressing the pro-

posed operations of the applicants, as you have outlined, are you speaking on behalf of all applicants?

A. I am.

Exam. Albus: By what authority?

[fol. 4093] By Mr. O'Brien:

Q. You are authorized by all the applicants to speak on their behalf?

A. All of the applicants were in entire agreement with this lease, and I have been delegated, I understand, by our attorney, to represent them all in speaking for the lease.

Exam. Albus: Very well.

By Mr. O'Brien:

Q. By "the applicants to these proceedings," you mean the Illinois Central, Pennsylvania Railroad, New York Central, Indiana Harbor Belt, the Belt Railway of Chicago, and the South Shore Line, is that correct?

A. That is correct.

Mr. O'Brien: I have not used probably their correct corporate name.

Exam. Albus: That will be understood.

By Mr. O'Brien:

Q. The Michigan Central also.

A. The Michigan Central is not signatory to this agreement, but they are signatory to a trackage agreement.

Exam. Albus: The same thing for the Kensington and Eastern, I take it.

The Witness: That is right. The same applies to the Kensington and Eastern, sir.

By Mr. O'Brien:

Q. Mr. Trissal, the other day Mr. Dwinell requested some information of most of the railroads as to the amount of industrial property the railroads hold. I don't recall

whether he made it directly of the Illinois Central, but if [fol. 4094] he didn't, he probably will—

Mr. Dwinell: I did.

Mr. O'Brien: All right.

By Mr. O'Brien:

Q. Can you tell us what industrial vacant property the Illinois Central has at the present time in this area.

Mr. Dwinell: No, in the City of Chicago.

Mr. O'Brien: In the City of Chicago, thank you.

Mr. Dwinell: Switching limits.

Mr. O'Brien: All right, so modified.

The Witness: Yes, sir. We have 17 acres which are adjacent to 95th Street and our Burnside property. Burnside, in general, lies between Cottage Grove Avenue, South Park Avenue, 95th Street, and 100th Street.

By Mr. O'Brien:

Q. May I interrupt you, Mr. Trissal. Is that the property that is adjacent to the car shops there?

A. It is. It is adjacent to our passenger car shops which handle repairs and maintenance to all passenger cars, including our suburban electrified cars.

Q. Is there any possibility that we may utilize that ourselves for additional shops?

A. I would say this is a very distinct possibility of that. Of course no one can predict what will happen to passenger car shops.

Q. Will you proceed?

[fol. 4095] A. In addition, we have approximately 32 acres in the Burnside area lying between 97th and 99th Street near South Park Avenue. Adjacent to the Wildwood Yard, which has been mentioned in these proceedings, we have approximately 65 acres, the majority of which lies east of the yard. That property would be the property which, if necessary to enlarge Wildwood Yard, would be utilized

for that purpose. Consequently, we do not really consider it industrial property, but it is vacant.

At Markham Yard we have approximately 17 acres, which is adjacent to 171st Street, which is available for industrial development. We have another strip of approximately 51 acres which lies east of Center Avenue, which is available, but it is zoned agricultural, and we have been unsuccessful to date in getting it zoned industrial.

In the area of the Calumet River and 130th Street we have four parcels lying south of 130th and both east and west of the Calumet River, comprising 239 acres. However, in that area the Corps of Engineers proposes to locate a controlling location for the Cal-Sag Canal system. Up to date we have been unsuccessful in getting them to relocate those proposed locations further south, off our property. In addition to that, the City of Chicago is presently negotiating with us for a large interceptor sewer which must discharge into the Cal-Sag Canal south of the proposed location. That will, of course, affect the utility of this [fol. 4096] property for industrial purposes.

That is all that we have in the Chicago switching district, of any size.

Mr. O'Brien: I would like to offer Exhibit H-64 and tender the witness for cross examination.

Exam. Albus: Any further direct?

(No response.)

Mr. Dwinell: I also asked for adjoining land not owned by the Illinois Central available for industrial development.

The Witness: I have some information on that, if you wish.

Exam. Albus: May we have it, please?

The Witness: There is approximately 230 acres in the vicinity of Markham Yard lying east of Center Avenue and north of 171st Street, which is also zoned as agricultural. I do not know the owner; I don't know whether they have made any effort to try to get it zoned industrial or whether they have not. Lying immediately west of our property,

south of 130th Street, are approximately 90 acres, the ownership of which I am not certain.

Mr. Dwinell: Is that east or west?

The Witness: West of our property. That is all of the other property that we know of that is available.

Exam. Albus: Any further cross examination?

[fol. 4097] Cross examination.

By Mr. Dwinell:

Q. What do you have at the Chicago River?

A. You mean in the South Water Street area?

Q. Yes.

A. We don't have any vacant there for development. It is all in use at the present time.

Q. So that there is no chance then of any harbor facilities on your property south of the Chicago River? Mr. Johnston indicated other.

A. I did not say that. I said it was all in use at the present time.

Q. How many acres are there?

A. There are approximately 80 acres in that area north of Randolph Street.

Q. I don't work for the Illinois Central, but I don't think that you are going to put industries immediately east of the Prudential Building.

A. I don't think so, either. In fact, if it is of any interest to you, we couldn't if we wished to, by the terms of the deed.

Q. That is right. In other words, I didn't want to leave the impression that you had 80 acres up there that could be used for industrial development.

This lease, as I understand, represents—this proposed lease agreement—the agreement of the applicants as to a [fol. 4098] contract arrangement which they would like to have with the Port District.

A. It is a proposal which has been made to the Port District.

Q. With no commitments.

A. That is correct. There are no commitments on either side other than the fact if the proposal were accepted, I feel reasonably sure that all of the parties to this application would sign, if we had a proper valuation and subject to the inspection of these two agreements that I mentioned.

Exam. Albus: And approval of the Interstate Commerce Commission.

The Witness: That is correct.

By Mr. Dwinell:

Q. I am just a little confused. I understood this had been agreed to. You now say if it were accepted by the district, you feel reasonably sure that it would be signed, subject to inspection of the leases already made and subject to valuation. If those were satisfactory, then it would be signed?

A. That is correct.

Exam. Albus: Any further cross examination?

Mr. Broker: I have some.

Mr. Dwinell: I am through.

By Mr. Broker:

Q. You have the lease agreement, Exhibit H-64 for identification in front of you?

[fol. 4099] A. Yes, sir.

Q. Article one, Section 1, refers to facilities presently owned. How extensive would that be? Would that include the tracks that run on either side of sheds 1, 2, and 3 as well as the yard at the southwest corner of the Regional Port District?

A. I am not sure of the present existence of sheds 1, 2, and 3. If they are presently in existence, it does include that, and it definitely includes the yard as it exists at the present time.

Q. Then it would include every railroad track and every railroad facility now located on property owned by the Chicago Regional Port District, right?

A. With the exception of the one track covered by the lease to the PB&W.

Q. Where would that be located?

A. That runs between 1, 2, and 3, I presume, from a junction at Doty Avenue, down to the facilities of the Calumet Harbor terminal, and which is to be used to connect with the Pennsylvania tracks with the Port District tracks.

Exam. Albus: What do you mean by PB&W?

The Witness: That is the Philadelphia, Baltimore & Washington. It is a subsidiary of the Pennsylvania Railroad.

Exam. Albus: One of the applicants herein.

The Witness: Yes, sir.

[fol. 4100] Mr. Broker: A word of explanation, to see if I understand it, that is the subsidiary lessor of the Pennsylvania that will own the track over which the Pennsylvania section authority to operate under 116, isn't that right?

Mr. Bierma: All the railroads seek to operate over that track.

Mr. Broker: Not under 118.

Mr. Bierma: No, under the 5(2) application. Excuse me.

By Mr. Broker:

Q. Turning to page 2, Section 2 of Article One. "Lessor agrees to provide and lease to Lessees such tracks and facilities as may be acquired by Lessor," et cetera, "and such additional land and additional facilities as may be required in the future for proper development of the Lake Calumet District." How do you describe the Lake Calumet District for purposes of this agreement?

A. That is described as the property owned by the Chicago Regional Port Authority in the vicinity of Lake Calumet.

Q. That would include the property that they own all around bounded on the east by Stony Island Avenue, extended, and whatever they owned here—I think it is all of it up to Doty Avenue—is that right?

A. If they owned the property bounded on the east by Stony Island, yes.

Q. Anything they own in that vicinity.

[fol. 4101] A. Anything they own in that vicinity.

Q. If this lease is executed, does the Rock Island have any right to use this property without becoming a party to your lease and operating agreement?

A. Unless they become a party to the lease, the only property they would have the right to use is that which is covered by their present contract with the Chicago Regional Port Authority.

Q. What is that?

A. I have not seen an executed copy of that contract. I understand—well, I won't tell you my understanding, because I know you will object. I haven't seen an executed copy of it.

Q. On page 3 of exhibit marked for identification as Exhibit H-63, please turn to Section 4 of Article Two, which states in part, and I quote, "Lessees agree to permit other railroads having physical connections with the property to become parties to this agreement." Would that include the Rock Island?

A. Yes, sir.

Q. Would that include the Nickel Plate?

A. If you have a physical connection with the property as defined in this exhibit, yes.

Q. What do you mean by a physical connection?

A. A railroad track that comes on to or abuts the property as defined in the exhibit.

[fol. 4102] Q. When must that track be in existence, when this agreement is signed?

A. I do not so read the lease. It doesn't say so.

Q. It says "having," which is present.

The Witness: I can just speak for my own interpretation, that means having at any time when they make application.

Mr. Bierma: You are welcome, Mr. Broker.

Mr. O'Brien: We are glad to have you.

Mr. Broker: I have no further questions on cross examination, but before the exhibit is received in evidence, I have to ask counsel a few questions.

Exam. Albus: Yes, sir. Proceed, please.

Mr. Broker: Are you seeking approval here of this lease agreement?

Mr. O'Brien: That is part of our whole application.

Mr. Broker: Where does it say so in the application?

Mr. O'Brien: We say so in the application.

Mr. Broker: It doesn't say so.

Mr. O'Brien: It is part of our case.

Mr. Bierma: The applications state that we are going to serve the port and the industries located therein.

Mr. O'Brien: What instrumentality we might use in order to get in there, something has to be naturally developed at the hearing, which we are seeking to do.

Mr. Broker: Do you consider that this arrangement for [fol. 4103] a lease and an operating agreement is exempt under the Interstate Commerce Act from specific Commission approval?

Mr. O'Brien: No, I don't. I don't necessarily feel that way at all. That is why we are offering it here today.

Mr. Broker: Then again I ask where in your applications do you ask approval of this arrangement?

Mr. O'Brien: It is contained in our application to the extent that we are asking authority to serve this property.

Mr. Broker: I am going to object to the receipt in evidence of this proposed lease, and I am going to object when the operating agreement is offered on the ground that it is beyond the scope of this application.

Exam. Albus: Objection overruled.

Mr. Broker: May I take an exception? Is that automatically understood.

Exam. Albus: Absolutely, yes sir.

Let the record show that exhibit marked for identification H-64 is received at this time.

(Exhibit No. H-64, Witness Trissal, was received in evidence.)

Exam. Albus: You are excused. Thank you.

• • • • • • •

[fol. 4127] October 7, 1957

• • • • • • •

H. H. Pevler resumed his testimony as follows:

• • • • • • •

[fol. 4134] Cross examination.

By Mr. Dwinell:

Q. You have some lines of railroads, one on one side and one on the other side, of Lake Calumet, which are shown in red on Belt Railway Exhibit 48, the map, an enlargement of which is on the easel. The line of the Pennsylvania on the east of Lake Calumet and which runs north and south, what obstructions would there be in the way of rivers or railroad between you and the Port District?

A. The Calumet River would have to be crossed and the Nickel Plate Railroad would have to be crossed. The Calumet River, I think we might do. I am not so sure about the Nickel Plate.

Q. Are there any other railroads?

A. Let me see which line they have on there: The Nickel Plate and the C&WI and the Cal Western are all on the west side of the Calumet River. In addition to that is the Calumet River.

Q. That line which we have just been discussing crosses the Little Calumet River or the Grand Calumet River, does it?

A. You mean our line?

Q. Yes, your line.

A. Yes, it crosses the Grand Calumet.

Q. After you get south, then you have the Little Calumet River between you and the port, do you not?

A. After we get south of the Grand Calumet?

Q. Yes.

[fol. 4135] A. Is this what you call the Grand Calumet?

Q. That is right.

A. Yes, you have this.

Q. Then you would have the Little Calumet River and what other railroad tracks?

A. The B&O-CT and the IHB and the Michigan Central and the South Shore. All of those are between us and the lake.

Q. That line which runs down the east side of the Calumet River runs south to what point where it connects with your Panhandle line?

A. Bernice.

Q. Going up to the Bernice line to a point immediately west of the Illinois Central Railroad, what lines of railroad are between it and Lake Calumet?

A. You mean between this line from Bernice to Riverdale?

Q. Right.

A. And our line and Lake Calumet?

Q. Yes.

A. The IHB, B&O-CT, Michigan Central, and the South Shore, or the K&E, rather than South Shore.

Q. All right.

You looked over at Lake Calumet with all of these lines of railroads and waterways between you and Lake Calumet, and you decided you wanted in, is that right?

A. No, that isn't exactly right. We have looked at Lake [fol. 4136] Calumet for a number of years with a great deal of interest feeling that some time it was going to be an important place.

Q. So you didn't look over there and decide you wanted in.

A. No. I say we have done that for a number of years, felt that that was always some day going to be an important place.

Q. Then my question was, you looked over and decided you wanted to get in, and the answer is yes.

A. Okay.

Q. To do that you had to look across all these railroad tracks and natural waterways?

A. Yes, they were all there.

Q. What is the closest distance between your proposed entrance to the Lake Calumet Port and your north and south line?

A. It is approximately—by rail or as the crow flies?

Q. No, just as the crow flies.

A. I don't know exactly; probably four or five miles.

Q. How far is it from the port down straight south to your Panhandle line?

A. I don't know.

Q. Several miles?

A. Well, as I say, it is probably four to five miles. That is a guess. I never gave that a thought because it didn't do any good.

Q. You found at southeast corner of Lake Calumet a property which was owned by the Calumet Harbor Ter-
[fol. 4137] minals Company, did you not?

A. Yes.

Q. I am not offering anything in evidence, I am simply showing to the witness a little map to which he can refer.

A. Yes, sir.

Q. And some year and a half ago, some year ago, you purchased properties owned by the Calumet Harbor Terminals, did you not?

A. We purchased the first part of this year.

Q. There is upon that property a large warehouse—first, that property is divided into two parcels by Stony Island Avenue.

A. That is right.

Q. Can you give me the acreage of the larger parcel?

A. About 32 acres. That is east of Stony Island.

Q. East of Stony Island Avenue. That is bounded on the north by Lake Calumet.

A. That is right.

Q. On the east by the turning basin.

A. By the river on the east.

Q. All right, the river.

A. Yes.

Q. On the south by 130th Street.

A. That is right.

Q. And on the west, on the south side of it, by Stony Island Avenue, and on the north side of the west side by [fol. 4138] the property of the Port District.

A. That is right.

Q. The Calumet Harbors Terminal is a terminal facility for water movements?

A. That is right, water to rail.

Q. Water and rail and truck.

A. Yes.

Q. It has on the north side of this 32-acre part a large warehouse which lies parallel at its longest axis to Lake Calumet, is that right?

A. There is a warehouse along the entrance to Lake Calumet.

Q. Yes. Then there is another warehouse which extends in a north and south direction immediately adjacent, or adjacent—I won't say "immediately"—to the boundary line with the Port District.

A. Well, there is one perpendicular to the entrance to the entrance to the lake, that is right.

Q. Yes. It runs into it. In other words, there are two—

A. It is not immediately adjacent to the west—

Q. I struck out that "immediately" part. Now, that property has been served by the Rock Island Railroad exclusively, has it not?

A. That is right.

Q. And the tracks of the Rock Island Railroad which serve that enter at the southwest corner of the 32-acre tract.

[fol. 4139] A. That is right.

Q. The main lead extends eastward, does it not, from the entrance?

A. On the property that formerly belonged to the Calumet Terminals.

Q. Yes.

A. That is right.

Q. Then there is a track which branches off very shortly to the north and lies adjacent to and serves the warehouse which runs from north to south on the west side thereof.

A. That is right.

Q. Then the main lead extends substantially to the east side of the property line to the river. Then it curves north, runs north close to the edge of the lake, then turns west, is that right?

A. Yes, sir.

Q. And runs on the north side of the warehouse which runs east and west between that warehouse and the lake.

A. It is on the wharf, on the dock, yes.

Q. From that track there branches off a little bit further south another track which runs alongside of and serves that same warehouse from the south side, is that right?

A. Well, that is the track that serves the warehouse, I presume. The track on the north side serves the dock.

Q. You stated the other day, as I understand from the [fol. 4140] statement by Mr. Bierma sometime ago, you intend to serve the properties now or hereafter placed—the industries now or hereafter located upon this property which you have purchased and which has been served exclusively by the Rock Island Railroad, is that right?

A. That is right—at least we have not had any request from anybody else to serve it.

Q. I don't understand.

A. No other railroad has asked to serve it. The Rock Island is in there now. That will require, if this application is successful, some changes in there which will cause a change in the track layout.

Q. That is what I am getting at. Now, you stated the other day, and I don't want to overstate what you said the other day. I don't want by my question to imply that I understood you to say that you had certainty in your plans, but I understood you to say the other day that you had under consideration the development in some way or other of the south part of this 32-acre tract by a coal dock or something else.

A. I didn't say that.

Mr. Bierma: Mr. Carpi's testimony.

By Mr. Dwinell:

Q. You heard it?

A. I heard it.

Q. Do you approve it?

A. That is Mr. Carpi's testimony.

[fol. 4141] Q. What did you say about it?

A. I haven't any ideas about it.

Q. You are the resident vice president in Chicago, and you have no ideas.

A. That isn't exactly right.

Q. About this.

A. That is Mr. Carpi's testimony, and any questions you want from that, I would rather you ask Mr. Carpi.

Q. Incidentally, and I forgot to ask this question as I went along, the north portion of this property has been leased back to the Calumet Harbor Terminals.

A. That is right.

Q. How much in acreage has been leased back to them?

A. It is all leased back to them now.

Q. The entire tract?

A. That is right.

Q. So that you then have no control over this.

A. Part of this property is on long-term lease, and part is on a short-term lease. We have some control over the short term. We have a lease over part of the property on a long-term basis.

Q. The long-term is the north part?

A. That is right.

Q. And the short term is the south part.

A. The south, that is right.

[fol. 4142] Q. What is the length of the lease of the short-term?

A. I think, as I recall it, it is 90-day termination.

Q. So that you could at any time, on a 90-day termination, acquire the possession as well as the ownership of the southern part.

A. That is right.

Q. Depending upon what you would do with the south part would depend the question of whether or not the connection of the Rock Island Railroad of the tracks serving the warehouses would be cut.

A. Depending upon what we would do at the south part?

Q. Yes.

A. As I remember the layout, that isn't exactly true. The track that we propose to enter the port property on cuts almost through the middle of the whole piece of property.

Q. Yes.

A. The part north of that, of course, is on the long-term lease and that on the south is on the short-term. There are other changes that become necessary in there, and I don't recall the detail of that without having a map.

Q. When you build your proposed track across this for the purpose of reaching the Port District tracks, you would cross across the tracks which now serve the industry, would you not?

A. We wouldn't cross across them. I think they will come [fol. 4143] out north of our track, at least.

Q. The tracks would come out north of your track.

A. Yes, they would be useless north of there.

Q. The connection of the Rock Island Railroad on the southwest corner to the lake front there and to the warehouses would be cut.

A. That is right.

Q. So that there would no longer be access from the southwest corner to the Rock Island.

A. To those warehouses.

Q. Let us go to the little piece of property which you purchased also from Cal Harbor and which lies to the west of Stony Island Avenue, and which I think is how many acres, six?

A. That is my recollection, six acres, yes.

Q. What have you done with that property? Is that also leased to—

A. That is leased to Calumet Harbor.

Q. Long term or short term?

A. That is short term basis, as I recall.

Q. So that you have then complete control of that property.

A. The six acres.

Q. Subject to 90-day termination.

A. That is right.

Q. Is it the policy of the Pennsylvania Railroad that if [fol. 4144] it sees an industry which it wants to serve located miles from its property, that it simply goes and buys the industry and starts serving it itself, regardless of the service which has been had to that property by other railroads in the past?

A. Well, it depends upon whether you can get to the industry physically or not.

Q. I am talking about a possible physical connection.

A. Well, we want to serve every industry we can.

Q. And it is the policy of the Pennsylvania Railroad then, as I get it, that if you see an industry you want to serve and can reach physically, it is the policy of the Pennsylvania Railroad that it will simply go out and buy the industry and then start serving it.

A. No, I wouldn't say that. This property was offered to us. We have always had an interest in this lake area, and the property was offered to us at a price that we thought was reasonable, and we bought the property.

Q. All right. I will change my question then. Is it the—

A. That wouldn't apply to all industry.

Q. If the Pennsylvania Railroad sees a property which is industrial property and served by another railroad, located in a place where it can be physically reached by the Pennsylvania Railroad and the property is offered to the Pennsylvania Railroad, and the Pennsylvania Railroad [fol. 4145] wants to serve it, is it the policy of the Pennsylvania Railroad that it will purchase such properties?

Commr. Albus: And the terms are reasonable.

Mr. Dwinell: All right, and the terms are reasonable.

The Witness: Well, every case would have to be decided on its own merits.

By Mr. Dwinell:

Q. And the terms are reasonable.

A. To make a general answer to the whole thing, all conditions being equal we would try to serve the property, sure.

Mr. Dwinell: That is all.

Commr. Albus: Mr. Broker, please.

Mr. Bordes: I have some questions.

Commr. Albus: I am sorry, Mr. Bordes, please.

Mr. Bierma: Before you begin, Mr. Dwinell, you stated tracks owned by the Rock Island within the Port District. You meant tracks—

Mr. Dwinell: Served. No, sir. We own the tracks to the entrance, not inside.

The Witness: Not on the property.

Mr. Dwinell: Not on the property.

By Mr. Bordes:

Q. I am going to confine my questions to your statement as much as possible.

You mention on pages 3 and 4 of your statement that the Pennsylvania Railroad has three major freight yards and six other supporting yards in the Chicago area.

[fol. 4146] A. That is right.

Q. The first major freight yard mentioned is the 59th Street Yard, which is located on the Panhandle line at 59th Street and Western Avenue, Chicago. You further say that the 59th Street Yard is a yard where road trains originate and terminate primarily to and from the east via Logansport, is that right?

A. That is right.

Q. Will you explain how the Pennsylvania Railroad proposes to move the business destined to the port from this 59th Street Yard?

A. Destined to the port from 59th Street?

Q. Yes, sir.

A. From 59th Street Yard down to Dolton Yard and from Dolton via Riverdale, the IC and the route described into the port.

Q. By Dolton Yard you mean the yard that is situated at 159th Street?

A. That is right. That is the primary serving yard that we propose for the port.

Q. What is the rail mileage from this connection to the port?

A. I think it is about—let me see—about 15½ miles by rail from 59th Street Yard to the port.

Q. I think you handed to us this morning a statement showing your connections. I haven't had time to digest that, so some of these questions might be just a little bit [fol. 4147] repetitious, and I will try my best not to make them redundant. From your 59th Street Yard down to Dolton, how would you get over to your Fort Wayne branch from the 59th Street Yard?

A. From 59th Street to the Fort Wayne line?

Q. Yes, sir.

A. There are two ways we can go. One is across what is shown there as the Inglewood connecting, across to the Fort Wayne side and out the Fort Wayne side, and the other way we would move is from 59th Street to Bernice and over the SC&S to Colehour and east to the Fort Wayne line.

Mr. Bierma: You are looking at Exhibit 33, are you not?
The Witness: Yes, Exhibit H-33.

By Mr. Bordes:

Q. Let us take 55th Street Yard. I believe you mentioned that was also a major freight yard.

A. That is right.

Q. That is located on your Fort Wayne line at 55th Street and Normal Avenue in Chicago. How do you propose to move the business destined for the port from this yard?

A. From 55th Street Yard over the Inglewood connecting and down the PB&W to Dolton and into the yard.

Q. Is that your Panhandle line?

A. That is right.

Q. That is from Logansport to Chicago?

A. That is right, from Chicago to Columbus via Logansport.

Q. And you will drop them off at Dolton.

[fol. 4148] A. That is right.

Q. What is the rail mileage from the 55th Street Yard?

A. About 17½ miles.

Q. As we understand it, the cars handled from the Fort Wayne Yard will not move directly into Chicago, according to your statement, but they will be consolidated east of Chicago at some point.

A. At Fort Wayne generally. Yes, Fort Wayne.

Q. Moved up on your Panhandle line to Dolton.

A. Moved up to Colehour, and the train operates over what is shown as SC&S on this exhibit, can set off the cars at Dolton, and then the train terminates at 59th Street. Trains move that way at this time.

Mr. Bierma: I am not sure if you understand the testimony on this point, that trains will set off—am I not right—at Dolton and go on into 59th Street. In other words, the trains will not go into 59th and a reverse move back?

The Witness: Oh, no. You speak, if I understand the question, of traffic moving from the east by Fort Wayne.

By Mr. Bordes:

Q. That is right.

A. And how it will be handled; it will be blocked and the trains now operate one every day and sometimes two from Fort Wayne to Colehour and over the SC&S, southward over the SC&S, and again northwestward over the PB&W, the cars will be set off at Doltan Yard, and the remainder [fol. 4149] of the train will move on into 59th Street where it terminates.

Q. That is the same sort of movement you have in your 59th Street Yard from Colehour to Bernice, is that right?

A. That is right. That is part of that route that is used.

Q. The next major freight yard mentioned in your statement is the Colehour yard.

A. That is right.

Q. Located on your Fort Wayne line at 106th Street and Indianapolic Boulevard. Will you please tell us how the Pennsylvania intends to move business destined to the port from your Colehour Yard?

A. It can be moved over the Fort Wayne line and then over the Belt Railway of Chicago, over the Illinois Central, to Kensington and into the port over the route we are asking to construct now.

Q. Can it also be handled via your connection with Bernice through the SC&S?

A. Yes, sir.

Q. What does the SC&S stand for?

A. The South Chicago & Southern. That was the original corporate name of that line.

Q. That is the connecting line between your Fort Wayne and Panhandle branch, is it not?

A. From Fort Wayne at Colehour to the Panhandle at Bernice.

Q. What would be the distance from that Colehour Yard [fol. 4150] operation down to the port?

A. Via the SC&S it is about 11 miles.

Q. And via the Belt?

A. It is about a little over 10, I believe.

Mr. Bierma: I think it is in your direct testimony; 10.9 miles.

By Mr. Bordes:

Q. Let us turn our attention to the six supporting yards. On your Exhibit 34 you say that you have six supporting yards. The first one you mention is the Riley road yard. Where is that located?

A. East of Colehour on the Fort Wayne line in Indiana Harbor.

Q. About how many rail miles is this yard from the port?

A. I can't give you exact. It is about 16 miles, 15 or 16 miles.

Q. How do you propose to move the business destined to port from the Riley Yard?

A. Riley road yard into Colehour, thence the SC&S, or the Belt Railway of Chicago-IC route to—that would move directly into the port, and that is probably the way it would be done. The alternate route for that is from Colehour via SC&S to Dolton and thence into the port yard.

Q. You mean Belt of Chicago?

A. Yes.

Q. Over 95th Street?

A. That is right.

[fol. 4151] Q. From your Fort Wayne branch over the Ilinois Central to your main line?

A. That is right.

Q. The other alternate route would be from Colehour all the way down to Bernice on your Panhandle line on the lower extremity of H-48, Exhibit H-48, and then back up to the Illinois Central connection, is that right?

A. That is right.

Q. What is the distance from that yard again, did you say?

A. From Riley road?

Q. You said you didn't know.

A. No, not exactly.

Q. Let us take the next supporting yard, Hartsdale. Where is that located?

A. East of Bernice on the PB&W. On Exhibit H-33 it is down near the right hand corner of the map.

Q. About how many rail miles is this yard from the port?

A. I can get that information for you. I don't have the exact information on that. I can get it for you.

Q. Could you, please, and we will read it into the record?

A. Yes.

Q. Thank you.

How do you propose to move the business destined to the port from your Hartsdale yard?

A. Probably from Hartsdale to Dolton. There the crew [fol. 4152] that will make the deliveries to the port will take it into the port by Riverdale, the Illinois Central, Kensington, and the C&E.

Q. Let us take the Clarke Yard. Tell us where that yard is located.

A. The Clarke Yard is located just west of Gary on the Fort Wayne line.

Q. Do you know the distance from the Clarke Yard to the port?

A. No, I don't. I will have to supply that.

Q. How would you propose to move the business from the Clarke Yard to the port?

A. In all probability it would move into Colehour via the Fort Wayne and from Colehour to the port via the Belt IC route.

Q. The same route that you have pointed out before?

A. Yes; that's right.

Q. Let us pass over Dolton for a moment and go to your Irondale Yard. That is a supporting yard. Where is that yard located?

A. Irondale is on the line—on the Calumet River line between—it is on the Cal-Western, just east of the port—of Lake Calumet.

Q. Do you know the distance—

A. No, I don't.

Q. Can you supply that also?

A. Yes.

[fol. 4153] Q. How do you propose to move your business from the Irondale Yard to the port?

A. In all probability it would move from the Irondale Yard into Colehour and then by the BRC Illinois Central route.

Q. Would you use switch crews or road train crews on these operations?

A. Between Irondale Yard would be a transfer crew or a yard crew.

Q. What about the Riley road yard?

A. It would be the same. It would not be a road crew.

Q. And the Hartsdale Yard?

A. It would be a local freight crew.

Q. And your Clarke Yard?

A. It would be a yard crew or transfer run.

Q. And 110th Street?

A. That would be a yard move, yard crew move.

Q. Let us talk about the Dolton Yard. On page 6 of your statement you say that the Pennsylvania Railroad expects to serve the port area initially from Dolton Yard, which is located on the Panhandle line at 159th Street, and that is down at the lower portion of the map here of map H-58—

A. Just above the river.

Q. Right here. (Indicating.)

A. A little below that.

Q. I am pointing to a point a little below Dolton on your [fol. 4154] Panhandle line.

A. That is it.

Q. I think you said that the total distance by rail from Dolton to the port via this route was 9.3 miles approximately?

A. That is right.

Q. How many railroads do you interchange with at the Dolton Yard?

A. The IHB and the C&EI.

Q. From what yards do these two carriers deliver their cars to you at Dolton?

A. I should correct my statement first. There is no regular interchange there with the C&EI. If there are any cars interchanged, it is right at Dolton on the interchange track, the Y track. The IHB deliver from the Blue Island Yard to Dolton, and we deliver to Dolton from the Blue Island Yard.

Q. Is that true of the C&EI?

A. No. The interchange is only by special arrangement, and those cars are delivered to us or for us on the interchange track at the intersection at Dolton or Dolton tower.

Q. Does the IHB deliver cars to you at Dolton?

A. Yes, sir.

Q. And also pull their cars from that yard, or do you make deliveries with your own engines?

A. We make the deliveries to them, and they make the deliveries to us.

[fol. 4155] Q. Do any of your road trains originate or terminate at your Dolton Yard?

A. Yes, sir—no, let me correct that. They pick up there, but the crews that operate there come out of 59th Street. They may get their entire train at Dolton, but the crews actually and the engines come out of 59th Street, and that is the originating terminal.

Mr. Bierma: They pick up and deliver both at Dolton?

The Witness: That is right. The crews, eastbound crews, pick up there, and the westbound crews set off sometimes the entire train at Dolton and go right into 59th Street.

By Mr. Bordes:

Q. Will you describe in detail the physical movement of a train from the time it leaves your Dolton Yard to the time that it is placed on the track in the Calumet Port yard?

A. That was in my direct testimony.

Q. Yes. I would like to have you explain it a little more in detail.

A. What detail do you want?

Q. Would you please point out where you move to and what connections you have there? You mention that you have a connection with the Illinois Central.

A. At Riverdale.

Q. Yes.

A. We move from Dolton Yard up the westbound track [fol. 4156] to Riverdale and around the Y to, I would say, northward track of Illinois Central to Kensington interlocking and there move southward across the interlocking on the K&E to the vicinity of Doty Avenue or crossover or connection that will lead into the Port District as located.

Q. When you say you connect with the north track, do you mean at Riverdale, that is at 138th Street approximately?

A. Yes, that is right.

Q. Do you connect with the main track of the Illinois Central at that point?

A. There is a connection between our main tracks and the Illinois Central and also the freight tracks at Riverdale.

Q. I am asking you, Mr. Pevler, if that is a connection between your track and the main track of the Illinois Central.

A. I won't say it is the main track, but it is the tracks that go up through Wildwood. I don't know whether it is main track or not, whether it is actually main track or not. I don't believe it is.

Q. Is it a double track or a single track?

A. Well, there is more than one track. It is double track is my recollection.

Q. A double track.

A. My recollection.

Q. From your connection at Riverdale north through the Wildwood Yard.

[fol. 4157] A. Yes.

Q. When you proceed north on this connection with the Illinois Central at Riverdale, do you proceed north through the Wildwood Yard of the Illinois Central Railroad?

A. Alongside of the Wildwood Yard, at least.

Q. Do you cross any streets at grade on this route?

A. I think there are. I don't know the physical characteristics well enough to say how many or what street you cross at grade.

Q. At what speed would you say that this train would move from Riverdale north through the Wildwood Yard?

A. At whatever speed the Illinois Central authorizes us to move.

Q. Would you feel that a speed of more than 15 to 20 miles an hour would be dictated?

A. I don't know. We will abide by whatever speed they authorize us to move.

Q. Do you know how far north this track that you are speaking of, this double track, from the connection at Riverdale proceeds before you connect with the main line tracks of the Illinois Central?

A. Not exactly, no.

Q. You don't know.

A. No.

Q. Are there any other movements over this wide track [fol. 4158] that you mention between Riverdale and the main connection of the Illinois Central Railroad someplace to the north?

A. You mean the connection between the Pennsylvania and the Illinois Central at Riverdale? Is there any other—

Q. I am speaking now of your connection at Riverdale with the Illinois Central, and you say that you are not quite clear as to just how far north that track goes before it meets the main track of the Illinois Central. I am asking you if there are any other railroads using that same track.

A. On the connection to the Illinois Central or the tracks of the Illinois Central ownership themselves, which do you mean?

Q. I am thinking now of the Illinois Central ownership.

A. I don't know that anybody except the Illinois Central uses it. That is the only one I know of that does.

Q. Well, now, isn't it true that in making that movement from Dolton to Riverdale you cross the IHB main track, do you not?

A. Yes.

Q. Would there be any delay entailed at that connection?

A. No abnormal delay. We cross it with every road train that goes in and out of 59th Street, and all the traffic we have crosses the IHB. No, we have no serious delay there.

Q. Do you not also cross the tracks of the B&O-CT at Riverdale?

[fol. 4159] A. Yes.

Q. Before you get on to the Illinois Central track?

A. That is right; that is right.

Q. As I understand your testimony, you do not know where that track connects with the main track of the Illinois Central.

A. That is right. I said I didn't know exactly where it connected.

Q. Would you care to hazard a guess?

A. No.

Q. You do, however, connect with the main track of the Illinois Central north of Riverdale, do you not?

A. We connect with the Illinois Central track, yes.

Q. I am speaking now of the main track.

A. I said we connect with the Illinois Central track.

Q. I am not trying to confuse you. I am just now referring to that—

A. I don't recall the layout well enough to say where the connection goes into what is known as a main track on the Illinois Central. I don't know what is designated main track and what isn't.

Exam. Albus: But you do have a connection, there is no doubt about that.

The Witness: There is no doubt about that, no.

Mr. Bierma: You simply don't know—

The Witness: I don't know what is designated as main [fol. 4160] track and what is not.

By Mr. Bordes:

Q. I am reading from your statement on page 6 when you said, this line, referring to that Illinois Central connecting line, your line from Dolton to the port, with the exception of the PRR-IC connection at Riverdale is via main tracks with signals and interlockings—do you see that?

A. Yes.

Q. Do you say with the exception of the PRR-IC connection at Riverdale is via main tracks with signals and interlockings. That is all—

A. You wanted to know how far you go before you get on the main track on this connection.

Q. Yes.

A. I can't answer the question, I don't know.

Q. Very well. When you do reach the main track of the Illinois Central, will it then be necessary to go on up to the main track, and after the rear car of your train clears the switch, will it then be necessary for your cars to stop and line the switch back for main line movements?

A. At Kensington?

Q. No, I am speaking now of the connection between that Illinois Central—

A. I get your point.

Q. —line and the main line of the Illinois Central.

[fol. 4161] A. Yes, it will be necessary. There is nothing unusual about that.

Q. I may say for the record, Mr. Pevler, that I understand that the main connection where you meet the main line of the Illinois Central is at about 124th Street.

A. That could be. I don't know exactly where it is.

Q. And Riverdale is at 138th Street.

A. There is some distance, but I don't know exactly.

Mr. Bierma: Mr. Zimmerman states it is about 124th Street, Mr. Bordes.

By Mr. Bordes:

Q. When you come up now on to the main track of the Illinois Central, will you then describe the movement from that point to the 116th Street interlocker and from there down to the port yard?

A. I am sort of at a loss to know what kind of description you would like to have I haven't already given you.

Q. We are now at about 124th Street of the main line of the Illinois Central.

A. We have closed the switch.

Q. Yes. How would you proceed from there to the port?

A. Kensington interlocking to clear the interlocking and then from—and then in a reverse direction through Kensington interlocking on the K&E to—

Q. Would that be a back-up movement?

A. Not necessarily. It may be necessary to run the en- [fol. 4162] gine around the cars and pull them into the port yard.

Q. You would proceed north of the interlocker, would you not?

A. That is right.

Q. Until you had the proper signal?

A. That is right, clear the interlocking, so that you could get the proper signal.

Q. Then you would proceed back through the interlocker down the K&E track, and you would come on to the east track, would you, of the K&E?

A. Yes.

Q. And then you would turn over and cross over on to the west track, would you not?

A. To get—

Q. Of the K&E.

A. Cross over to the west track?

Q. Yes. The westbound track.

A. The westward track. Yes, that is right, cross over—that is right, cross over in order to come to the connection that goes down around under 130th Street.

Q. Cross over the main tracks of the K&E from the east side to the west side and then down this other lead track which would go to the port, underneath the bridge at 130th Street, and around into the port from the Calumet River.

A. That is right.

[fol. 4163] Mr. Bierma: To shorten this a little, isn't it true that our operations on the Pennsylvania from Kensington into and out of the port would be substantially the same as Mr. Zimmerman testified?

The Witness: That is right.

Mr. Bordes: I didn't understand that.

Mr. Bierma: Once we enter the routing into the port at Kensington, into and out of the port, Mr. Pevler stated his operations will be pretty much the same as the Illinois Central.

Exam. Albus: That is true of all applicants. There is only going to be one entrance from the K&E, as I understand.

Mr. Broker: True of all except the South Shore.

Mr. Bierma: South Shore is an exception.

By Mr. Bordes:

Q. Now we are proceeding down that lead off the K&E to the track underneath the bridge, and then around a little bit to the north, to the north of the bridge at 130th Street, and then west on the track of the Pennsylvania Railroad into the port. That is correct, is it?

A. That is right.

Q. What speed would be dictated, Mr. Pevler, for this movement underneath the bridge?

A. Probably 15 miles an hour, something in that reduced speed, prepared to stop short of any obstruction or train,

and it would probably be in the neighborhood of 15 miles an hour.

Q. That is a single track, isn't it, underneath the bridge [fol. 4164] at 130th Street?

A. That is right, proposed at the present time.

Q. Track used for ingoing and outgoing trains.

A. That is right.

Q. After you reach the port, that is, after you have come in to your own tracks, proposed tracks, will this train curve to the west and run on a tangent track along the south edge of the port property, south of and parallel with the back-up warehouse?

A. You say south edge of the port property?

Q. Along the south edge of the port property, yes, and south—

A. It is on the south side of the warehouse.

Q. Yes; south of and parallel with the back-up warehouse.

A. That is my recollection of the layout, yes.

Q. That is the track that will connect with the track of the Regional Port District.

A. That is right.

Q. That is at a point just west of the back-up warehouse, is it not, that connection?

A. That is approximately right, yes.

Q. Will that train we are speaking of then continue, whether in back-up movement or otherwise, into the Port District yard?

A. That is right.

Q. So the entire train is shoved into the Port District yard.

A. That is right.

[fol. 4165] Q. Is this track of the Port District on to which you will go at the west end of the back-up warehouse also the lead track now used to serve the back-up warehouse?

A. I believe it is. That doesn't necessarily have to remain that way. If that is found to be undesirable, it is not

too hard to provide additional connections so that that will not be the case.

Q. I understand.

Exam. Albus: It is your understanding that that is the situation as it is today?

The witness: That is right.

By Mr. Bordes:

Q. As it is laid out today would that track we are speaking of also be used as a lead track to serve any additional warehouse which might be built to the east of the present back-up warehouse?

A. Yes.

Q. I would like to ask you one or two more questions. How do you expect to operate on the single track entrance and exit from the port with the New York Central, Indiana Harbor Belt, New York Central, and the Belt Railroad, using the same track to gain entrance to the port?

A. The track will have to be under the control of a yardmaster and a crew receive permission of the yardmaster to move in either direction. If I understand your question—in other words, what control will there be over the use of [fol. 4166] this track?

Q. Yes. What I am getting at, you have one single track. You can't all come in at the same time, can you?

A. Well, that doesn't work too well. You can follow each other, but you can't come in at the same time.

Q. So when one train is up on the Kensington & Eastern track, it is possible, is it not, that that train may be delayed until another train that is in the port is moving out?

A. It could be. Those moves have to be organized and programed by the yardmaster who will have control of that track in order to keep them at a minimum.

Mr. Bordes: I think that is all.

Exam. Albus: Mr. Broker, please.

Mr. Bierma: Before you proceed, I have the mileages that you wanted for those various yards.

Exam. Albus: That will be fine.

Mr. Bierma: From Hartsdale Yard to Dolton is 9 miles; from Clarke Yard it is 19 miles; from Irondale is 11 miles.

Exam. Albus: To the port?

Mr. Bierma: To Dolton.

Exam. Albus: All right.

By Mr. Broker:

Q. In your testimony on page 6 you indicate that the running time from Dolton to the port would be about one hour.

A. That is right.

[fol. 4167] Q. I assume that is from the point of departure from Dolton. To which point in the port is it?

A. To the end of our track and until you enter the port yard or right as you enter the port yard.

Q. You heard Mr. Zimmerman's testimony, and he estimated various times from the time you get on the South Shore tracks up at Kensington down into the port. Do you subscribe generally to his statement?

A. Generally, yes, sir.

Q. You are not suggesting that you can take a train from Dolton to the port, leave that train there and pick up another one and be back in Dolton in a total of two hours, are you?

A. You would have to add to that the time it takes you to pick up the train, make your air test, and depart.

Q. And to drop off the first train.

A. Yes, that is right.

Q. The same answer or similar answer would be given with respect to the movement from Colehour Yard to the port where you say the one-way trip is one and one-half hours. It would be something in addition to three, right?

A. Whatever time it took you to set off the first and pick up the second.

Q. As I understand your testimony, only the Pennsylvania Railroad will serve the industries located on the land purchased by the Pennsylvania Railroad, is that right?

[fol. 4168] A. That is the way it looks at the present time.

Q. That service would be performed by Pennsylvania crews, would it not?

A. That is right.

Q. So in addition to the time you have mentioned there is the question of switching an industry by a locomotive that the Pennsylvania sends in, isn't that so?

A. That or another. The locomotive that takes the cars in doesn't necessarily have to do the switching work. That would depend on how much time is required to do the switching.

Q. There would at least be the time to stop that train, though, and cut the cars off and then continue on.

A. That is right.

Q. And then on the exit to pick up cars, isn't that so?

A. It could be done that way.

Q. Would you have any idea how long it takes to stop such a train and cut a couple of cars off, let's say, and then continue on?

A. It may be done in 10 minutes, 10 to 15 minutes, at the outside.

Q. Would that be the same for the pick up on the—

A. That is right.

Q. You have an Exhibit H-39, statement of empty box cars delivered by the Pennsylvania Railroad to other railroads at Chicago during a period of 1957.

[fol. 4169] A. I believe so.

Q. Did any of those cars include cars you were ordered to give to western connections?

A. I believe—in 1957?

Q. Yes.

A. There may be a few. We haven't had many orders this year.

Q. The type of order I am talking about is this AAR order.

A. I know the type of order, but it does include some of those cars, yes.

Q. It would also include some cars which you have received from other eastern connections in compliance with the order to them to deliver to western carriers, isn't that so?

A. You mean other eastern connections to give us cars to deliver to western connections?

Q. That is right.

A. That may be, but I have no knowledge of any such orders. There could have been, but I am not familiar with any orders of that kind.

Q. How many times a day would you propose to run trains in and out of the port?

A. Our plans were for two times, make two deliveries, and on the return, two pickups.

Q. Do you know whether there are passenger trains operating over the portion of the Illinois Central that you would operate on?

[fol. 4170] A. There is not, to the best of my knowledge.

Mr. Broker: Nothing more, thank you, and thank you for working up this other information.

Exam. Albus: Any further cross examination?

Mr. Bordes: I am sorry, I neglected to ask Mr. Pevler a few questions.

Exam. Albus: Proceed, please.

By Mr. Bordes:

Q. You stated that as an alternate route to the Bernice-Dolton route you might use your Colehour Yard to the connection with the Belt at South Chicago, is that right?

A. Let me put it—clarify that. The route that we intend to use primarily to the port from Colehour is by the Belt and the Illinois Central. I should have said, if I left the impression that that was the alternate. That is the main route, and the alternate route could be by the SC&S, Bernice and Dolton.

Q. Yes. Would you please explain, if the movement was from Colehour over to the port via the Belt Railway at

South Chicago, how would you get your trains from your other yards up to Colehour? How first would you deliver them into your Colehour Yard from 59th Street on the Panhandle?

A. We wouldn't do that. We could, but we wouldn't make a move of that kind. You mean bring cars from 59th Street to Colehour for movement that way? We wouldn't do it that way.

[fol. 4171] Q. If you had decided to use the Colehour method, Colehour to the Belt, then to the IC and back to the port route, how then would you move your cars from the other yards to your Colehour Yard?

A. I am a little confused in the question you are asking. Would you say that again or can it be read?

Q. You stated in your statement that as an alternate route you could use the Colehour Yard for delivery to the port by means of your connection with the Belt at 95th Street and then over to the Illinois Central connection at about 94th Street and Cottage Grove Avenue, is that right?

A. I don't know whether we said that as an alternate or not.

Mr. Bierma: In your direct statement, "If volume and service would necessitate additional service.

The Witness: That is right. Additional service, that is an additional route, not alternate.

By Mr. Bordes:

Q. Let us assume you have additional service required.

A. Yes.

Q. How would you deliver the cars from your—would you deliver cars from your other yards to Colehour for that type of an operation?

A. The chances are they would come in, cars for delivery would either come in at Colehour or at Dolton. If they came in from Colehour and there was sufficient business [fol. 4172] that we couldn't handle it through Dolton, we could handle it from Colehour directly, and that is the

purpose of that, if there is sufficient business to justify moving that way, but anything that comes from Colehour from the east can, and our primary plans are to bring it over the SC&S and set it off at Dolton with road trains that now operate.

Q. I see. Would you please describe the movement from Colehour to the port via your connection with the Belt at 95th Street?

A. We go up to what we call River Branch Junction; there go to the Belt Railroad of Chicago to—I think it is Burnham—and move southwardly on the Illinois Central to Kensington and in on the K&E.

Mr. Bierma: You were looking at Exhibit H-33, were you not?

The Witness: I am referring to Exhibit H-33.

By Mr. Bordes:

Q. Now, I am referring to Exhibit H-48, and I am now pointing to your Colehour Yard under Fort Wayne branch line, and I am just outlining your movement as I understand it north to the Belt Railway and into the Belt Railway yard at South Chicago, and then you would proceed in a westerly direction—

A. Not into the yard.

Q. Not into the yard.

A. Around to the yard.

[fol. 4173] Q. Around the yard.

A. That is right.

Q. Then you would come up on this little Y connection to the north of the main Belt line to your connection with the Illinois Central, is that right?

A. That is right.

Q. And then back up and then a back-up movement down to Kensington, is that right?

A. It could be done that way, or we might have to run around it and pull it down to Kensington.

Q. I see. When you are on the Belt Railway main line at South Chicago, is there any obstruction to traffic there?

Would you tell me how many railroads you must cross before you reach the main line of the Illinois Central?

A. Cross at grade? I don't know offhand. There is no unusual obstruction there that I know of.

Q. Don't you cross the main line of the Nickel Plate?

A. I don't know. I can get that for you, but I don't offhand know.

Q. I am speaking now at Pullman Junction, where the Nickel Plate crosses the Belt Railway. You don't know that. Do you know whether or not there is a single track from the main line of the Belt Railway just immediately west of the main line track of the Illinois Central which proceeds in a northwesterly direction to the main line of the Illinois Central?

[fol. 4174] A. You mean the connection between the Belt and Illinois Central?

Q. Yes.

A. Is that single or double?

Q. Yes.

A. To the best of my knowledge that is single track.

Q. Do any other railroads use that single track connection?

A. They probably do. I don't know who else uses it.

Q. Does the Illinois Central use it?

A. I think they do. It is their connection.

Q. Do you cross the tracks of the Western Indiana at that point at Pullman Junction also?

A. Of the Western Indiana?

Q. Yes.

A. Chicago and Western Indiana?

Q. Yes, sir.

A. I think so.

Q. Isn't it a fact that that single track that you spoke of between the Belt Railway Company connection at Pullman Junction and the main track of the Illinois Central is used for all of the coal deliveries from the Illinois Central to the Belt for delivery to the rail to water transfer at 101st Street?

A. I am not familiar enough with the movement over that to answer your question definitely.

[fol. 4175] Q. You are not prepared to say, Mr. Pelver, how many conflicting movements there would be—

A. No.

Q. —per hour or per day through that single track connection.

A. No. I want to call your attention to one thing. That is the second choice of routes that we propose to use. The initial service will be from Dolton, which will handle quite a bit of business.

Q. Well, now, I appreciate that, thank you. Isn't it true that if this is a single track connection, that if you were to use that alternate route, that it would be possible, with the congestion that might be generated there, for your train to be delayed at that Pullman Junction connection until such time as a train leaving the main track of the Illinois Central, moving eastward over the Belt, would clear the switch at Pullman Junction for points east?

A. Well, if we arrived at, I will say, east end of that connection and the Illinois Central moved a train around there, we would have to wait until they cleared the connection.

Q. Yes.

A. We would be delayed to that extent.

Q. The same would be true on the other end, wouldn't it?

A. Sure. You can't run through on there.

Q. Do you know the distance between that connection [fol. 4176] with the Belt at Pullman Junction and the main track of the Illinois Central at about 94th and Cottage Grove Avenue?

A. No, sir; no, sir.

Q. Is this the same track or the same route that the Belt Railway Company of Chicago intends to use, that same single track, on their movements to the port?

A. I believe so.

Q. You believe it is.
A. Yes.

Mr. Bordes: That is all.
Exam. Albus: Any further cross examination?
(No response.)

Exam. Albus: Any redirect?
Mr. Bierma: No redirect.
Exam. Albus: Thank you very much. You are excused.

(Witness excused.)

Mr. Bierma: I would like to offer at this time Exhibits H-32 through 42.
Mr. O'Brien: I offered mine at the close of the direct.
Exam. Albus: I think we can offer 26 all the way through to 42. Is there any objection?
Mr. Broker: To H-29.
Exam. Albus: On what ground?
Mr. Broker: On the ground it is beyond the scope of the application.
[fol. 4177] Mr. O'Brien: It is included in the application.
Exam. Albus: That is the memorandum of understanding.
Mr. O'Brien: That is right.
Exam. Albus: The objection is overruled.
Mr. Broker: Exception.
Exam. Albus: Note an exception. Let the record show that all exhibits marked for identification from H-26 to and including H-42 are received in evidence at this time.

* * * * * * *

[fol. 4184] D. E. FERNER resumed his testimony as follows:

Exam. Albus: Cross examine, please.
Mr. Dwinell: No questions.
Exam. Albus: Mr. Broker.

Cross examination.

By Mr. Broker:

Q. In the operation out of your yard, which, as I understand it, is southwest of Lake Calumet about a little less than a mile and a half—is that correct so far? Is it about a mile and a half southeast of the port?

A. That is right.

Q. —you would operate out of that yard up on your westbound track, is that right?

[fol. 4185] A. Yes.

Q. And then would you back into the Port District?

A. Yes.

Q. About how much time would it take to go from your yard up to the point where you stop preparatory to backing up?

A. Well, it is about a little over two miles, probably five or eight minutes.

Q. How much time in addition from the time you start to back up until you reach the yard in the lake area at the southwest corner of the lake?

A. Probably 15 minutes.

Q. A total of about 23 minutes then.

A. No, altogether about 15 minutes. You mean from Burnham Yard into the port.

Q. Into the port yard, yes.

A. Total of 15 minutes.

Q. Yes.

A. We can run around our cars if we want to, to go back down into the port.

Q. I understand, you might run around or back up.

A. Yes.

Q. Can you estimate how long it would take for you to run from Burnham Yard, go into the Lake Calumet Yard, leave cars, pick up additional cars, and get back to Burnham Yard?

A. Well, of course it would depend somewhat on the size [fol. 4186] of the cut, but I think we would make that trip in less than an hour.

Q. At any rate, it would be more than twice the 15 minutes.

A. That is right.

Q. It has been testified there will be some sort of remote control switches at this point, is that right?

A. That is right.

Q. Where would they be operated from, do you know?

A. Well, that hasn't been exactly determined, but we think Michigan City.

Q. That, I assume, would be under the control of your company?

A. Our train dispatcher.

Q. How do the other roads that propose to use your track—how would they get authority to use your crossover and go into the port? Would that simply be by signal indication?

A. Well, from Kensington Yard, that is, on the New York Central and the IHB, it would be probably from remote control, but the trains coming down from the Illinois Central at Kensington would be authorized through the Kensington tower.

Q. And what—

A. With our dispatchers.

Q. By your dispatchers.

A. Yes.

Q. You propose to set up a block from where, Kensington [fol. 4187] tower to the south?

A. Well, Kensington tower is now interlocked, and we operate the Illinois Central and the Michigan Central over there by control of the tower by merely calling our train dispatcher and giving them authority to move. You see, that is in yard limits.

Q. That is what, going into—

A. Going into the Rock Island.

Q. When you said that they called up this Kensington tower, is that for an eastbound or westbound movement?

A. Eastbound movement.

Q. Would the same thing work on westbound?

A. On westbound our crews call the dispatcher direct.

Q. Where is he located?

A. The train dispatcher?

Q. Yes.

A. Michigan City.

Q. That is done by the train crews?

A. That is right.

Q. That would be true of each of the crews of each of the railroads using this track, right?

A. That is right.

Q. I have here a schedule of the Chicago South Shore and South Bend Railroad which indicates westbound and eastbound movements. Could you indicate on this the point [fol. 4188] at which this switch would be located as closely as possible?

A. For which roads?

Q. For your own company. This is only your schedule, nobody else's.

A. You mean the switch going into the port?

Q. That is right.

A. It is located right here at Calumet Harbor, right in here.

Q. That is on the eastbound. Would you please mark it on the westbound.

Exam. Albus: It would be at the same point, would it not?

The Witness: Same point.

By Mr. Broker:

Q. How close is the nearest passenger station to this switch? Would that be Calumet Harbor?

A. Yes. Possibly 500, 5 to 800 feet, something like that, east. Five to 800 feet east.

Q. Many but not all of your trains stop there, isn't that so?

A. That is right.

Q. The nearest one to the west would be—and I am thinking now of a station with regular stops—124th Street, is that right, at which point there are some stops but not all?

A. Very few trains stop at 124th Street.

Q. Some but not all, or few but not all, put it that way. At Kensington all of your trains stop, is that right?

A. All of the westbound trains stop at Kensington, yes. [fol. 4189] Northbound on the IC, westbound on our railroad.

Q. What about eastbound on your line?

A. We have one train that doesn't stop at Kensington.

Q. I mean virtually all of them.

A. That is right.

Q. How much clearance do you need in that area? For instance, I notice that there is a train that stops at Calumet Harbor at 857, an eastbound train. That would be 5 to 800 feet east of this switch. How much time allowance is needed to—

A. Are you talking about a.m. or p.m.? 8:57—

Q. A.m.

A. 8:57 a.m. An eastbound train?

Q. Yes. How much time allowance would be needed just prior to that arrival to permit freight trains to go in and out of this port?

A. Well, it is signal-controlled. There wouldn't be any necessity of any time clearance. A positive signal would be located there.

Q. Do you think about a minute or two minutes?

A. Yes.

Q. How much in advance of—in other words, the train would pass by the switch about two minutes before it hits Calumet Harbor station, right?

A. An east bound train?

Q. Yes.

[fol. 4190] A. No.

Q. Well, one minute, roughly.

A. It is only 5 or 600 feet.

Q. Within a matter of—

A. A few seconds, yes.

Q. How much time in advance of that does that point have be cleared before a freight train can go in or out?

A. As soon as it passes the clearance point on the insulated joint.

Q. That is after the train passes. What about before it passes?

A. Well, I don't quite get your question.

Q. Well, let us assume that you have a freight train that takes about three minutes to get in over that switch.

A. From the time it entered the section at—

Q. That's right.

A. Yes.

Q. How much prior to the movement of your passenger train must that freight train movement be completed so that you have a safe operation?

A. Well, you follow the passenger train right out of 127th Street or Kensington, either one.

Q. You follow it right out and then go into the yard.

A. Yes.

Q. How much time do you estimate it would take that [fol. 4191] freight train to come down from Kensington to that point?

A. Well, of course that would depend on the amount of cars he had. He will have about 20 to 23 minutes is all he will have to make the trip.

Q. That sufficient?

A. I should say so, yes.

Q. What is the minimum time between trains that is needed for a freight train to operate over that section of track and get into the port?

A. Well, he has as much time as he can get in there between the two passenger trains, which, you will notice on the schedule, I think, if you have it there, runs about 25 minutes.

Q. But the freight train will use both east and westbound tracks, won't it?

A. That is right.

Q. Let us take another example. I notice that your westbound trains pass Kensington about 10 after the hour and 43 after the hour as a regular matter during the day.

A. That is right.

Q. Your eastbound trains pass that same point at 21 after the hour and 51 after the hour.

A. That is right.

Q. Between that first westbound and first eastbound train between 10 after and 21 after there are 11 minutes. Is that time for a freight train to get in there?

[fol. 4192] A. Between the first eastbound and next westbound?

Q. Right.

A. Yes. Through the interlocker, you mean.

Q. Yes.

A. Yes.

Q. To traverse that entire run from Kensington down—

A. No, he doesn't necessarily have to traverse the entire run. All he has to do is get across track 6.

Q. In other words, freight trains will run, even though there is only a ten-minute interval between passenger trains.

A. He can get across track 6 on our eastbound main in ten minutes easily enough.

Q. That would be the same coming out of the port?

A. Well, you have a little more time there because the next westbound train will be going by the port about the time he would be able to reach the entrance to the port. Then he would have 25 more minutes to make the crossover, if you are talking about interference to the westbound train.

• • • • • • •

[fol. 4196] C. L. Poole resumed his testimony as follows:

• • • • • • •

Cross examination.

By Mr. Broker:

Q. How many runs a day do you plan to make in and out of the port?

A. Two, and more if necessary.

[fol. 4197] Q. You heard the description of time given by Mr. Simmerman with which Mr. Pevler concurred. Do you concur in that as far as your own operations are concerned between Kensington and into the port area?

A. I do.

Q. I don't recall your testifying, but about how long would it take to go from Clearing Yard to the port area, drop off cars, pick up more, and get back to Clearing Yard?

A. About five hours and a half to six hours.

Mr. Broker: Thank you. That is all.

Exam. Albus: Any further cross?

(No response.)

Exam. Albus: Any redirect?

Redirect examination.

By Mr. Osmond:

Q. Would you break down that five and one-half hours to six hours?

A. Two hours' running time from Clearing to the port, and the same on the return trip, figuring approximately an hour and a half getting in and out of the port; that is, handling a train in and out.

• • • • • • •

[fol. 4204] JOSEPH R. HARTLEY was sworn and testified as follows:

Direct examination.

By Mr. Chartrand:

Q. Will you please state your name and place of residence?

[fol. 4205] A. My name is Joseph R. Hartley, and I live in Bloomington, Indiana.

Q. By whom are you employed and what is your position? A. I am employed by the School of Business of Indiana University as an assistant professor of transportation.

Q. Will you please review your background and your education and business experience?

A. I was born and brought up in Portland, Indiana, a small town of about 7,000 people south of Fort Wayne. I went through the elementary and secondary schools there, graduated as high school valedictorian, senior class. Throughout my elementary school work I worked in the Hartley Dairy Company, which was an ice cream, dairy products, and cold storage locker plant of my father's. I started my higher education at Ball State Teachers College in Muncie, Indiana and later transferred to the University of Indiana School of Business, where I completed a bachelor's degree in general business administration. On a graduate level I did both a master's and a doctorate of business administration at Indiana, specializing in transportation and public utilities. I did do considerable work in four other fields, finance, marketing, economic theory, and business-government relationships.

During the past year and a half I served in the United States Air Force as a first lieutenant and was connected [fol. 4206] with air materiel headquarters at Wright-Patterson Air Force Base. I was one of four staff advisers to General E. B. Cassidy, who is the head of AMC traffic management. General Cassidy has responsibility for

spending about 400 billion dollars a year on commercial transportation of manufactured aircraft products to supply depots and to air bases.

I returned to Indiana University this fall, back to the faculty.

Q. Are you the same J. R. Hartley that wrote an article titled "The Effect of the St. Lawrence Seaway on the Movement of Grain"?

A. Yes. Starting in 1955 I spent one full year of time studying the possible effects of the St. Lawrence Seaway on movements of grain. I followed that with a year of part-time work in which I analyzed the raw data and documented the findings.

Q. Was this a study requested by the grain industry?

A. Yes. It was a study which was suggested by the Board of Trade of the City of Chicago, and it happened that at that particular time various members of the School of Business at Indiana in 1954 had been discussing the possibilities of making a general study of the seaway. We felt that it was a very important topic which a forward-looking school of business must give some attention for the benefit and information of commerce in the United States.

[fol. 4207] Q. Is it customary that universities undertake studies of this nature upon the request of private industry?

A. Very much so. I think it is common knowledge that over half the colleges in the United States are privately endowed institutions. The vast bulk of their money, for all purposes, comes from literally gifts, both from private individuals and business firms, some trade associations and other types of associates. By far in the way of the largest contributors are various business firms in the country. After all, all of the wealth and income of the country is generated at one point or another by some sort of commercial enterprise. Even state-endowed universities depend for a large portion of their research funds from various endowments and gifts, because their state tax revenues usually aren't large enough to adequately conduct their university affairs.

Q. Do railroads ever make similar requests for studies?

A. Well, at Indiana University, in our department of transportation, I think we have made studies for about every mode of transportation carrier. The chairman of our department, Dr. L. L. Waters, who is nationally known in the transportation field, wrote a history of the Santa Fe Railroad, entitled "Steel Trails to Santa Fe." A professor who left there about four or five years ago wrote a history of the Gulf, Mobile & Ohio Railroad, and of course both those studies were financed by the railroads. We have written [fol. 4208] ten a history of the Foster Truck Lines of Indianapolis, Indiana, made studies of Railroad Express, the railroad passenger deficit problem, truck line terminals, and of course the seaway study, and various other studies in the area of transportation, every one of which I am familiar with in the last four or five years, has been financed, at least partially, by some business institution or trade association.

Q. Are there any stipulations set out by the university before—setting forth a clear understanding before any money is received by any private industry or interest?

A. We have four statements we always include in any agreement with any donating institution, regardless of its origin or interests, and these four factors must be agreed upon before any research is started. The first is that the total sum of the donation must be transferred to the Indiana Foundation for Economic and Business Research before the project starts. This means that our own research foundation holds the purse strings after we start the research rather than the donating institution. This, of course, is to avoid the possibility that if you started work for some institution they would conclude they didn't like your findings and tell you they wanted to stop the project, so we have to get the money before we ever start, and we hold the purse strings. That is one specification.

The second is that the information, all of the information, [fol. 4209] that we develop must be made publicly available. It cannot be withheld by the university, because of course, our main function in any sort of research, whether it is in

nuclear physics or in our institution for sexual research or in economics and business is to widen the frontiers of knowledge for the country as a whole. It has to be of a general public service. In line with this, the third consideration is that it must be a topic of general interest rather than very restricted interest. For instance, we are willing to make a study of the effects of the seaway on the grain trade, but we would not dare make a study of the effects of the seaway on Cargill, Inc., because that is one individual grain company, and we feel if they want a specific study, that is up to them to do it. We will do a study if it is of interest to the general public. The final specification I think should be obvious, and that is that the conclusions must be those of the university staff even though they are diametrically opposed to the donating institution. Those are always put in all research agreements that Indiana University performs, and I think probably in those of any university that performs research, regardless of who it is for.

Q. Your regard to public interest, would that also include that you would not undertake a study of this kind to develop only the advantages that might accrue to Chicago because of the seaway?

[fol. 4210] A. That is correct. If at the time this research was discussed the Board of Trade had requested that it only be a study of Chicago, we would have had to have turned it down. It happened, though, that the whole study was conceived by a group of university academicians, rather than, I think, members of the Board of Trade. The Board of Trade a number of years ago has become very interested in improving their public service, and they have set up a committee of faculty people from schools of business and agriculture, which is their educational advisory committee, and this committee was the one which originally suggested that the Board of Trade should do—should sponsor some major research project that would have interest to the entire grain trade. That is why they requested that it cover the entire United States, and of course that was exactly the type of thing we must be interested in.

Q. I think that pretty well brings us down to the point of where you actually undertook the study. The approval was given by the Board of Trade to go forward, and you started to undertake the study. Would you kindly give us the ground that you covered in making this study?

A. First of all, I had the assistance of Dr. Waters, who directed the study, and two other professors of Indiana, Dr. S. F. Otteson, director of our Bureau of Business Research, and Walsh Oder, professor of marketing. We [fol. 4211] started out by covering everything we could find any place in the country that dealt with the St. Lawrence Seaway and with the general grain movements. After we carefully and very exhaustively went through all the available data, we then conducted a large number of personal interviews with many grain companies, many grain institutions, such as Minneapolis Grain Exchange, Chicago Board of Trade, and other grain exchanges. I spent considerable time in New York City talking with ocean carriers, both foreign and American flag; I spent a week and a half in Washington, working with the Department of Agriculture, getting statistical information primarily, worked with the Federal Maritime Commission, and as I said before, many, many specific companies in all types of transportation business and in the grain marketing business and processing.

Q. Did that include representatives of the different modes of transportation?

A. Yes. I talked with various major barge lines, that is, representatives of the barge lines. I talked with railroad officials, in fact I talked with one vice president of the Rock Island line, dealt with truck lines, and of course some lake carriers.

Q. Did you also contact any of the port authorities?

A. Yes. I talked with some port authorities directly, and I contacted almost every port authority of major importance, grain ports, by mail also, the New Orleans Port Au- [fol. 4212] thority, Port Authority of the City of New York, Baltimore, Philadelphia, so on, around the sea coast, as well

as some of the newer port authorities being established up and down the Great Lakes.

Q. Was there other basis research that was undertaken separate and apart from these interviews?

A. Well, of course we acquired as much or more information by correspondence than we did by personal interviews. Most of my Canadian contacts were via letters to the Canadian Board of Grain commissioners, the Department of Transport of Canada, the Canadian St. Lawrence Seaway Authority, and so on. In addition to the letters and interviews, then the biggest job, I think, was the matter of going through all the data that was available and trying to make some sense out of many, many different figures and develop a logical analysis.

Q. Did you undertake to make this study a projection as far as possible based on a factual background?

A. Of course that was one of the biggest problems we had and something we decided at the very outset we would have to do; that is, we would have to base it on a strict factual and statistical background. There have been many other studies done in the last four or five years of seaway cargo potentials, but most of them tend to pull figures out of hats after a generalized discussion of good and bad points and say, "There are X million tons of coal will move." We decided we would have to make a very exhaustive statistical [fol. 4213] analysis of present grain movements, present and expected shipping costs via all grain routes, as well as the new seaway route, and go from those figures to develop firm estimates of grain shipping potentials over the new seaway route.

Q. Would you now proceed with a summary of your conclusions regarding the effect of the St. Lawrence Seaway on the movement of grain?

A. Yes. In general my basic conclusion is that there will be a very large increase in the grain exports over the Great Lakes St. Lawrence route after it is completed in 1959 as compared with the present time. That applies to both

Canadian and American grain. More specifically, to our problem today, I concluded that in the neighborhood of 60 to 110,000,000 bushels of grain can be reasonably expected to move through Chicago direct to some type of water carrier for export by around 1965 or 1966. That is the general conclusion and the thing I would like to demonstrate today. In summarizing my approach to that conclusion, there are seven major points which I would like to discuss. One is the basic structure of world commerce and grain. I think a brief understanding of that is necessary to a lucid discussion of the problem. Secondly, I would like to give some attention to a few key physical features of the Great Lakes St. Lawrence Seaway. Many of them are hotly debated.

Q. Excuse me. I wonder, as you mention your point, [fol. 4214] would you kindly proceed with the explanation of it as you go, please.

A. All right. I will be glad to.

Well, the first point is a general discussion of present and anticipated world grain movements. International trade in grain, as it is today, is important for our case because if, by some chance, total world movements of grain should decline drastically in the next ten years, we couldn't expect the seaway to move much grain no matter how advantageous a route it was. It is true that during the 1930s the severe economic depression caused very low movements of international grain. Some antagonists of the seaway have used the average from 1930 to 1940 to indicate that we can expect perhaps 50, 60, or 70 per cent reduction in grain movements of the world internationally by the time the seaway opens. Well, first of all, I think that for analysis of this sort we should rule out the possibility of a future protracted economic depression like that of the 1930s. We are certainly not planning on it. We can't base our future plans for business expansion and investment on the assumption of a drastic depression. We have had 17 years now of economic boom which suggests that perhaps the country will tend to grow rather than to contract, with the

exception of perhaps minor recessions. Therefore, I assumed that no major economic depression was immediately in the offing. I hope I am right.

Furthermore, in my study I have a table which shows the [fol. 4215] trend of total international movements of grain the last 50 years. The general trend line is upward. It has been upward with the growth of population and of economic areas in the world, economic production, and I think that the chances are the trend line will continue to rise, so barring a depression, we can expect grain exports to remain as high as they are now on the average and perhaps gradually rise in the next ten years. Certainly I don't think we will incur a major decline.

One other factor is important relative to the structure of international grain movements, and that is that Europe is by far the biggest customer for grain exports, both of the United States and other grain exporters. This is very important because of the particular geographic location of the St. Lawrence Seaway route. The major grain exporters are often referred to as the Big Four. They are the United States, Canada, Argentina, and Australia. Canada and the United States are the two leaders, and they tend to vie from year to year for the leading position. It has fluctuated back and forth.

That is the structure of world grain trade.

Q. Could I ask you at that point, in other words, if, for example, China were the largest user of grain, then that would have a definite effect upon the usefulness of the St. Lawrence Seaway in its development, would it not?

[fol. 4216] A. Very definitely.

Q. Therefore, the ability of Europe to consume the grains here involved ties itself in directly with the usefulness of the seaway, and have you made an analysis of each of the grains in so far as the country of consumption is concerned to properly evaluate that?

A. I have made a very careful analysis of present grain consumption in foreign countries. Would you like me to develop that more now?

Q. No. It does bear directly—the extent to which foreign countries in all parts of the world have the ability to consume grain, that was taken into consideration in finally developing the estimates that you think would flow through the seaway.

A. Yes. It had to be because it is obvious if you look at a map or globe of the world that the St. Lawrence Seaway points directly at the continent of Europe. It is a circuitous route for ship movements to countries such as South America, Africa, or the Orient, and if by some chance the Orient was our biggest grain consumer—which they are not—I think the seaway would have very limted value as a grain route because it would be about a thousand miles out of the way for ships as compared with our major seaports to move grain to the orient.

Q. Thank you.

A. But our analysis did indicate that Europe consumes [fol. 4217] well over half of the United States grain, and they have been doing that for many, many years, at least a couple of decades, and their shortage of land and very rapid industrialization, I think, suggests that Europe will continue to be a major grain deficit area.

Q. Proceed, please.

A. The second factor I think we should give some consideration to is the key physical aspects of the St. Lawrence Seaway. I will not review all of the details of the project. It is in my study, and I think probably most of us are familiar with those by now.

It is important, though, to recognize that for one thing the seaway is a seasonal route because the Great Lakes are fresh water and freeze in the wintertime, and shipments usually stop sometime around the first of December or occasionally run as high as the middle of December. Shipping does not open up again until the middle of March to the middle of April. This means that the seaway will be closed inevitably at least four months a year, and there is no hope that atomic energy or any other source of heat will

thaw the ice that comes from subzero winters on the lakes. It is going to be closed, as it has been the last 150 years.

We have had experience on the lakes now for a couple of centuries, as far as shipping is concerned. The seasonal can't be overlooked. It is very important. The second con- [fol. 4218] sideration is the so-called connecting channel construction lag. The seaway project is only involving deepening and construction of new locks on the upper St. Lawrence River around the so-called International Rapids. It wasn't until 1956 that the United States Federal Government appropriated funds for deepening the channels at the Soo, at the Straits of Mackinac, and around Lake St. Clair, Detroit. It is true, however, that there are presently 25 foot of draft available for down bound ships in the connecting channels and 21 for the draft upbound. This means that the present downbound channels are only two feet more shallow than the planned 27 foot drafts for the seaway.

Q. May I ask at that point, is that 25 foot downbound channel predicated upon what is termed low water datum?

A. It is true that the 25 foot downbound drafts are based on low water datum, and during the past three or four years the Great Lakes have tended to be rather lush with water. They have been a couple of feet above the water datum. Actually there is about 27 foot of draft available for ships operating now. I don't think one can plan on that always being the case, because the lakes tend to go in cycles of high water and low water, and it could be by 1960 they will be approaching low water datum again.

Q. Would you say that in so far as that cycle is concerned, that between now and 1959 the level of the water in the St. [fol. 4219] Clair River and Detroit River would be above the low water datum?

A. I think probably in view of the very heavy rainfall we have had in the last two or three years, we may expect the water levels to be somewhat above low water datum. They don't approach those low points except in very severe drought, and I think it would take more than one year of protracted drought to cause that.

Of course I wouldn't want to try to predict just when this country is going to start enjoying three or four years of drought. It can happen as it did in the middle 30s. I think probably we will have higher water than that, though.

Q. Proceed, please.

A. The connecting channels won't be completely deepened downbound and upbound to 27 feet until around 1962. This means that lake ports such as Chicago above Toledo will have a slight disadvantage on export and import movements between 1959 and 1962 on the seaway. I don't think we can give too much emphasis to that space especially in view of the fact that it look like there is so much intense interest on the part of ship operators in the new seaway route that we may have excess shipping in the seaway the first couple or three years, simply because companies know if they don't get in the early stages they lose out as far as sales promotion is concerned, so they probably will be willing to operate ships at only partial capacity, simply to [fol. 4220] build a good business reputation for the future in the Great Lakes overseas service.

Q. In so far as this 25 foot downbound channel is concerned, what might move through those channels in the next two years, would it be any less than, say, we have enjoyed in the last two years?

A. I can't—

Q. In so far as the size of the cargoes are concerned.

A. I can't see any reason to expect a reduction in the cargo sizes in the next two years before the seaway opens.

Q. Thank you, sir.

A. The trend seems to be gradually upward as far as individual lake carrier loadings are concerned; smaller lake vessels are gradually being scrapped out of the lake carrier fleet and gradually replaced by new larger lake carriers.

Mr. Broker: Excuse me. Did he testify how much a ship was drawing? Is that the question you were asking?

Mr. Chartrand: No. It is the depth of the channel.

The Witness: I will go into the draft and types of the ships in just a minute.

One other physical aspect that is very significant is the capacity of the Welland Canal. There have been various "guesstimates" at the capacity of the Welland Canal. Some of these conclude that the Welland is going to be so restrictive that very little new cargo can develop through the new [fol. 4221] St. Lawrence canals.

First of all, before I go into a detailed discussion of that, I think we should recognize as a matter of common sense the Welland Canal has considerable excess capacity right now, based on the fact that a large portion of the ships going through the Welland today are small canalers built to operate through the Welland and on down the upper St. Lawrence River canals which are only 14 feet deep. Now, when we replace the 14 foot St. Lawrence canals with a 27 foot channel, those very, very small canalers are going to simply go out of the picture. They can't compete with ships that can carry four to five times as much cargo, and I think it is obvious that if we replace the small canalers that presently use the Welland with large lake and ocean carriers, that more cargo can be carried through there. I wouldn't be surprised to see the average loadings through the Welland almost double, based on the tremendous sizes of some of the new lake bulk carriers that are being built. So simple logical reasoning suggests that the Welland has ample excess capacity to move a great increase in tonnage.

In my study I go through a detailed estimate of the maximum daily lockages that the Welland locks can handle. It takes about 50 minutes to lock a ship through. That means something like 27 or 28 lockages a day is a maximum number of lockages in both directions the Welland can handle. [fol. 4222] If you multiply that times the number of days of open navigation, it suggests that somewhat over 6,000 lockages a year can go through the Welland. Because of occasional delays, accidents, the actual practical limit is somewhat less than that.

Following that analysis through and assuming that something like three-quarters of the lockages after the seaway

opens will be in large lake carriers or in large ocean vessels, the mathematical computation suggests that around 45,000,000 to perhaps 50,000,000 tons of cargo could be moved through the Welland Canal. I will not go into more detail because it is available here, and I don't want to talk too much at length on it.

I would like to mention one word of warning relative to estimating capacities of waterways.

You can conclude many different things based on what you wanted to assume to begin with, and no matter what you estimate to be the so-called practical capacity of a transportation route, that capacity can usually be crowded to handle more than it looks like it ought to handle.

For instance, the Calumet Sag Canal in southern Chicago was built to handle a little over a million tons of cargo. I think it is now handling around 5,000,000 tons. The Corps of Engineers says it is very badly congested and crowded. Nevertheless, the fact remains they are carrying much more than they expected. I think many streets here in Chi- [fol. 4223] cago are carrying well over their so-called proper engineering capacity of automobiles and trucks. By the same token, some railroad lines are carrying more than some engineers think they ought to carry or they can carry easily. The Corps of Engineers have been saying now for about ten years that the canals and locks on the Ohio River have reached their maximum capacity, and yet every year the tonnage moving goes on up. Admittedly the conditions are congested, and this does tend to raise operating costs.

Nevertheless, I think it is very safe to conclude that the Welland Canal can allow for an expansion of 15,000,000 tons of traffic, perhaps 20,000,000 tons of traffic, and that is a very large increase in traffic in any case. Furthermore, Canada has been rather friendly toward improving its inland waterways, I think more so than the United States. Therefore, if it becomes clearly evident that the traffic justifies it, I believe Canada will spend the necessary $150,000,000 or so to build twin locks at the Welland.

Three of the eight locks are already twin locks. However, I don't anticipate that Canada will do that until they have something more firm to base their traffic analyses on, and I hope that they do wait until they have something more definite.

So much for the Welland.

The final physical consideration is the effect on operating speed of the restricted channels in the lakes. It is true [fol. 4224] that some channels are restricted, but there are surprisingly few channels that actually have speed limits. I have a complete table that shows the computation here, but only about 165 miles out of 1200 miles of Great Lakes waterways from Chicago have restrictive speed limits. They range from 6 to 12 miles per hour. For over a thousand miles there is open full speed steaming available for ships. Allowing for the time it takes to go through the Welland and new seaway location, I conclude that a ship coming into the seaway will lose something like one day of steaming time because of those limiting factors as compared with steaming the same distance on the ocean.

While it can't be overlooked, it is not extremely serious, even if it turned out to be two days of lost time, because of congestion during the year, and I don't think it would be extremely important.

Now to briefly consider the problem of vessel types and operating drafts on the seaway, the seaway is being designed to make available about 25½ feet of safe operating draft for ships. This means that whereas over a mud bottom that is going to be restrictive, they dredge to 27 feet over a very dangerous rocky bottom, they are dredging as much as 29 to 30 feet. The connecting channel work of the Corps of Engineers is also pointing toward a 25½ safe operating draft for ships.

[fol. 4225] Furthermore, it is very important to note that this minimum operating draft will only be at a very few select points in lake channels. It is one thing to have a thousand miles of 27 foot drafts and another thing to have a few

spots where you have restrictive drafts and therefore may want to slow your ship down a few miles per hour just because you don't want to take any unnecessary risks. There won't be very many spots where the draft actually is as little as 27 or 29 feet.

I have talked to many ship operators, both lake carriers and ocean carriers. The lakers seem to be used to operating with less leeway between their keel and the actual bottom than the ocean carriers. Ocean carriers, I think, are a little more cautious about it. They might change their ways after a little more experience on the lakes, I don't know, but most of them seem to think they won't care to operate at more than 24½ feet of loaded draft. I think some of the more cautious may reduce their loads to 24 or 23½ feet. It varies with the ship captain and type of ship, and of course, to some extent with the annual fluctuation of water levels.

In general this draft is equal to the draft that is used by the average size ship in the world fleet today. I have an analysis in the study of all the ships in the world fleet, and it shows that around 67 per cent of the foreign flag freighters use less than 25½ feet of operating draft. On [fol. 4226] the other hand, American ships tend to be much larger than foreign ships. They build them large to try to offset their disadvantages of high labor costs and also partially because they are intended for use in war emergencies and must be equipped to make large-scale movements. So only 12 per cent of the United States flag freighters draw less than 25½ feet. Note I am using 25½ feet here because a ship's captain can control the draft at which he operates a couple of feet by the amount of fuel and water and stores he carries on board. These small foreign ships today and of course future ships will fuel at Montreal on the way out, and as they come in, at Montreal will take on just enough fuel to go into the lakes, and therefore they can gain a couple of extra feet for cargo loads on the lakes.

This indicates that well over 4,000 freighters in the present world fleet can operate at full draft on the seaway.

I think that means there will be very, very ample shipping available on the seaway route.

There is some question at times about whether or not foreign ships will come in. Well, I think the operators have already demonstrated that if they are willing to operate with these very, very small ships today on the Great Lakes, which only carry 1600 tons on the lakes, that they certainly will come in here when they can carry 8 to 9,000 tons. There is nothing any more mobile than ships, and they certainly will go where the cargo is available, [fol. 4227] just as land transportation carriers go where shipments are available.

Of course large lake bulk carriers can carry much more than the 8 or 9,000 tons of grain that the ocean carriers will carry. It is true that the average lake carrier today only carries around 10 to 12,000 tons of ore or grain, but virtually all of the new carriers are being built to carry 18 to 20,000 tons of cargo. The huge George Humphrey, an ore carrier, can actually carry 25,000 tons of ore at 25½ feet of draft. With this additional deepening of the connecting channels I think we can expect the lake carriers to be built even a little larger in the future than they are today. This means that lake bulk carriers will be able to handle from two to as much as three times the cargo as the ocean freighters.

The third factor which I will consider is potential rates over the seaway for grain movements. This involves an analysis of the distance from Chicago to European ports and some other foreign areas, annual daily operating costs of a typical lake vessel or a typical ocean freighter, and the anticipated tolls for use of the seaway facilities. In my study we have made a comprehensive analysis of sailing distances. It is all available here. The general conclusion is rather surprising—it was to me, anyhow—we find that Chicago is only 200 to 4 or 500 miles farther [fol. 4228] from major European ports as such ports as Baltimore. Chicago is actually 600 to a thousand miles

closer to European ports than New Orleans. Of course ports on down the lake are even closer, so the actual sailing distance is not very much larger than the sailing distance from our seacoast ports. This is because of the fact that the seaway happens to follow the Great Circle route toward Europe. That is why our previous mention of Europe as a major consuming center is very important. Relating the distance disadvantages of Chicago with the daily speed of a typical freighter, we find that Chicago is two to three days farther away from most of the foreign ports than the Atlantic Coast ports and about the same as the Gulf ports or perhaps somewhat closer than Gulf ports so far as steaming time is concerned.

Based on daily ship operating costs, which I developed after contacting many foreign and American flag steamship operators, I found that the average tramp bulk carrier of about 8,000 dead weight tons capacity today costs around $1,700 for daily operating costs. American flag costs are about—around $2,500, but because American flag operating costs are higher than those of foreign carriers, the foreign carrier costs tend to set the rates, and our own ships are able to meet those rates by means of federal subsidy.

The daily operating costs may be as high as $2,000 even up to $2500 for a brand new 10,000 ton bulk carrier. The [fol. 4229] exact size isn't too significant when you are only considering two or three days of steaming time.

I then have an analysis here of how we multiply number of days of additional steaming time to Chicago times daily operating costs, divided by the 8,000 ton capacity of the ship, and that indicates that from Chicago to Hamburg, Germany, as compared to Baltimore, it would cost around 4 cents more per bushel or 6 cents per hundred weight to carry grain from Chicago than from Baltimore to Hamburg, Germany.

I have gone through and made the same analysis for many other world distinctions, and the differential varies from 4 to 8 cents to European ports. This is an additional

increment that lake grain shippers must pay over the seaway as compared to shipping through the Atlantic ports, and of course because the Gulf has a significant distance disadvantage, we conclude that the rates will be about the same as compared with the Gulf.

There is one other consideration in costs which I skipped over. I must mention it for at least a minute, and that is the tolls that are going to be charged on the seaway. That has become a very controversial subject because of the fact that the seaway construction costs are higher now than the Corps of Engineers estimated them in 1953, something not too unusual in engineer construction today.

In hearings just a month ago in Washington held by the [fol. 4230] Toll Committee of both the American and Canadian Seaway Corporations, it was shown that the annual operating costs of the two corporations are going to be around 28,000,000 beyond now instead of the original estimate of about $15,000,000. Both the Canadian and American law state specifically that those costs must be covered by tolls.

Mr. Gagen: Just a clarifying question at that point, Mr. Chartrand. Who put that into the record? Can you tell us? At those hearings. Just for my own information when I review our record.

The Witness: Surely. Mr. Deanilian indicated—and it is my understanding that the estimates of the American St. Lawrence Seaway Development Corporation also range in the neighborhood of $28,000,000. I can check on that more completely later on if you would like.

Exam. Albus: All right, continue.

The Witness: Assuming this $28,000,000 annual operating cost of the two corporations, if there should be 30,000,000 tons of cargo, the toll would have to be about 93 cents a ton. If there be 40,000,000 tons of cargo it would reduce to 70 cents and if it is 50,000,000 tons of cargo it would reduce it to about 56 cents. Both laws also state specifically that the corporation should consider making a distinction in tolls between bulk commodities and general

cargo, based on the assumption that the lower value bulk [fol. 4231] commodities probably should receive a lower toll than the higher class general cargo. The corporation, I do not think, has made its decision yet about just how they are going to set the tolls up. It still might be a flat rate.

Because of the statement in the law, though, I think the chances are we can expect grain tolls to be somewhat less than that. If they should turn out to be 60 cent per hundred or per ton, that would be about 3 cents per hundredweight, and it is not extremely significant in our computation of costs in comparing the seaway route with other transportation routes.

To estimate the total volume of grain that may move through Great Lakes ports, if there is to be any increase, we have to compare the probable seaway shipping rates with the present routes used for carrying midwest grain to the ocean ports of the United States. There is a table in the seventh chapter of my study which compares these various routes, the present Great Lakes route to Buffalo, transshipment to barge thereon to New York or Albany; the Great Lakes route to Buffalo or Oswego and by rail to Atlantic ports; and the all-rail route from the middlewest to Atlantic ports.

Using the increments that we estimated for steamship costs to the European area of around 3 cents a bushel or 5 to 6 cents per hundredweight, I compared those with the inland routes to Atlantic ports and find that the seaway route will probably vary from 15 to 20 cents per bushel [fol. 4232] less than the present routes for moving American grain to Atlantic ports. This suggestion that even though there is vigorous rail rate-cutting to the east, they cannot fully offset the advantage of the seaway route.

I go through various analyses that are available here.

Recognizing that there is a substantial cost advantage, perhaps it will be no more than 10 cents a bushel after we do have rate-cutting by competing carriers, and certainly that can be expected. The differential is still significant

enough to make the seaway an attractive route for foreign exports. Using an estimate of 5 cents a hundred pound higher shipping rates from Chicago to Europe than from Atlantic ports and equal shipping rates from Chicago to Europe as compared with Gulf ports, we compared rail routes, both to the Gulf and to Chicago, to find a break-even line of which it will be as economic to ship via the Lakes as via the Gulf ports and the Atlantic ports. That indicates—there are maps available here which show the complete break-even line—it suggests that the vast bulk of the middlewestern grain-producing area will be tributary to the Great Lakes ports during the open season of navigation. The line extends down as far as southern Kansas and possibly will go into northern Oklahoma. Of course it can't be fixed precisely because we don't know exactly what will be the effect of possible competitive rate-cutting of routes serving the Gulf and Atlantic ports versus routes [fol. 4233] serving the Great Lakes ports.

By Mr. Chartrand:

Q. But you took the situation as it existed at the present time.

A. Yes.

Q. Under current rates.

A. In that respect it is important to note that today there are very substantial reductions in the grain export rates to the Gulf and Atlantic ports as compared with the domestic rates to those ports. Of course we don't have export rates quoted to Great Lakes ports today, and I think it is possible that some carriers may tend to quote those in the future. Just exactly to what extent is indeterminant.

Mr. Bierma: Could you define the tributary area by states, giving us the north and south and east and west boundaries?

The Witness: Surely. The break-even line runs through the central part of Montana, down through Wyoming and

through Colorado, and then turns eastward, going through northern Oklahoma or southern Kansas. It comes to the central part of Missouri and then probably will go up and down the Ohio River. It is not too important whether or not it might extend into Kentucky because Kentucky is not an important grain-producing state. Comparing rates to Chicago with rates to Baltimore, it extends up through the middle of Ohio. Actually the tributary area for Lake Erie ports, I think, will include all of Ohio, since they are [fol. 4234] much closer to the Ohio producing region than Chicago is. For the Chicago area alone we estimate that the line will come down through the central part of Indiana. Toledo will attract the grain east of the line and Chicago will attract it west of it.

By Mr. Chartrand:

Q. Is that all based upon a detailed study of the rate situation under present conditions and your expectations under the seaway and its savings?

A. It is. It was based on a very exhaustive study of present rail granaries. It was conducted by four different traffic men who have had years of experience in the grain transportation business. I can't disclose their names because a couple of them were employees of railroads and preferred not to have their name mentioned here. The study was directed by Mr. Erickson of the Board of Trade Transportation Department. This was strictly a matter of taking tariffs and finding what point in Kansas has the same rate to Chicago as the rate to New Orleans.

Q. Or other Texas ports.

A. Yes. We also considered Galveston and Houston and the various major Atlantic ports also.

• • • • • • •

[fol. 4249] Cross examination.

By Mr. Guandolo:

Q. In order to consider how much grain traffic will move through the Welland Canal, you would of necessity have to consider the movement of other commodities through the Welland Canal, would you not, including iron ore?

A. Certainly. I just stated that is the reason I did examine them in my book.

Exam. Albus: In reaching the saturation point.

The Witness: Yes.

By Mr. Guandolo:

Q. Going to the next paragraph, you say "In a sense this is a pilot study of the effects of the seaway on the commercial channels of one commodity, grain." As I understand that statement, you don't purport to be talking here about any other commodity than grain.

A. I think that is clear by the title of the book, "The Effects of the St. Lawrence Seaway On Grain Movements."

Q. I am curious to know what you mean by the words "pilot study."

A. I use "pilot study" there to indicate that I thought this was an approach to analyzing a particular commodity movement which could be applied to analyzing other commodity movements. I, of course, consider it considerably more than a pilot study of grain movements. I think it is a very exhaustive and complete study of potential grain [fol. 4250] movements, but in analyzing iron ore movements I assume that much of the same approach would be taken.

Q. On pages 16 and 17 you have summarized some of your findings, and I would like to read them to you and then ask you a question about them. The first one is, "Although the seaway will be a tremendous improvement over the old 14-foot canals in the St. Lawrence River, it will still

have some limiting physical features. It will be closed to navigation because of ice from mid-December to mid-April and, being closed one-third of the time, will clearly restrict the amount of grain that can be exported via the new route.

"Moreover, the capacity of the Welland Canal and the new seaway locks will eventually constitute a bottleneck for traffic if the anticipated tonnage potentials are realized."

That is still your view, is it not?

A. Certainly. I think I gave very special emphasis to the physical factors in my testimony. However, by the same token, I did allow for these expected physical limitations in my analysis of potential grain movements.

Q. Turning to another finding—I am not reading all of them—you say, and this is number three, "Water rates on the seaway for grain shipments to Europe will probably exceed rates from north Atlantic ports by .04 to .08 per hundred pounds. This is based on the additional steaming time required to reach Great Lakes ports as compared to [fol. 4251] Atlantic ports, daily ship operating costs, and prospective tolls on grain." That statement is still true, as of today, is it not?

A. Yes, it is. Because of the slight increase in expected tolls, I might point out here I would incline somewhat more toward the 8 cent figure than the 4 cent figure. When you consider that the competing routes, though, range all the way from 25 cents on up per hundred pound, I don't think it is too significant, whether it is 8 cents, 7 cents, some other figure in that range.

Q. "The tributary of the area of the seaway for export to Europe will include all grain-producing land from which land, water, freight costs are less than the costs via Gulf or on the Atlantic ports. An analysis of present rates via truck, train, and barge line coupled with the above estimate of the seaway-ocean rate premium demonstrates that most of the middlewest will be tributary to the seaway with the Rocky Mountains and Appalacian Mountains as approximate west and east boundaries. The southern dividing line will extend through northern Oklahoma, central Missouri,

and along the Ohio River. Vigorous rate-cutting by railroads, trucks, and barge lines serving Gulf ports could push the dividing line in Oklahoma and Missouri significantly northward." That is still your opinion today, is it not?

A. That is correct. It is true that vigorous rate battles might push the dividing line northward. Perhaps I should [fol. 4252] add that vigorous rate competition might push the dividing line southward—not enough, though, to make major changes in the amount of grain that may move through the seaway.

Q. In finding number six you say in part, "Wheat will constitute the largest movement," and there I take it you are speaking of all grain movement, and then you say, "It will be followed by corn and soybeans. Relatively small quantities of barley, grain, sorghums, rye, other, and flax seed will also move." That is your opinion as of this moment, is it not, Doctor?

A. That is correct.

Q. Turning to your finding number seven, you say, "Gulf and Atlantic ports will suffer substantial losses of grain traffic which will be intensified by the peculiar seasonal effect of the seaway." I believe that you mentioned what the total diversion of traffic will be from eastern ports. Am I right in assuming that?

A. Yes, that is correct.

Q. What was the total that you gave?

A. I would like to look that up, if I may, in the book, to make sure that I don't misquote a figure.

Exam. Albus: Certainly. That is perfectly all right, Doctor.

The Witness: On page 223 I state that Gulf ports will lose to the seaway approximately 30 per cent of their potential 1961 shipments. They will probably lose approxi- [fol. 4253] mately 75,000,000 bushels of their total potential trade, and I go on and show the breakdown for the various individual grains. For the Atlantic Coast ports I state,

"Atlantic Coast ports may lose approximately one-half of their current grain export volume. That comes as no surprise since the geographic location of the St. Lawrence route suggests that it will hurt Atlantic ports considerably more than Gulf ports. Something like 90 to 100,000,000 bushels of the potential exports of the early 1960s are likely to be diverted to seaway ships." Those, I believe, are the figures that you have reference to.

By Mr. Guandolo:

Q. Turning to page 56 of your book, Doctor, you state in the middle—you state at the beginning of the second paragraph, "As was mentioned previously the Canadian law authorizing seaway construction was passed December 21, 1951. The act resembles the United States law in most respects. The Canadian construction work and operation of the seaway will be performed by a government corporation designated the St. Lawrence Seaway Authority." Then you drop down and say, "As in the United States law, the deep water channel is to be constructed between Lake Erie and Montreal. Operation costs are to be defrayed by tolls." Then on page 61, along the same lines, in the middle of that page, you say, "Since both the Canadian and American Seaway Acts prescribe that construction costs must be covered by tolls, these costs will have a very significant bearing upon charges to shippers who use the seaway." As [fol. 4254] I understand that language, Doctor, both the Canadian government and the United States government require that the cost of the construction of the St. Lawrence Seaway be borne by tolls.

A. Yes.

Q. So the fixing of the tolls to cover the expense of construction lies in the hands of both the Canadian government and the United States Government, is that right?

A. Yes. I state as much in my book.

Exam. Albus: Let the record show a ten-minute recess.

(Short recess.)

Exam. Albus: The hearing will please come to order. We will continue with the cross examination, please.

By Mr. Guandolo:

Q. To avoid lengthy cross examination, Doctor, I will attempt to take significant parts of your treatise out of context and then ask you questions on the portions taken out. On pages 71 and 72 you set out some disadvantages of ocean transportation, and you state that it is almost always slower than land transport; geography places strict limitations on the area which can enjoy water transportation. Weather causes more trouble for ships than for land vehicles and water service is not so flexible as rail or truck. Then you state on page 72, "Although many of the advantages of ocean transport also apply to transportation on the Mississippi or Great Lakes, still some of the favorable [fol. 4255] features are less pronounced for inland waterways, and the disadvantages of ocean transport become magnified." First I say St. Lawrence Seaway will be unique in that tolls will be charged to cover all construction costs. "Ships on the seaway will thus have to forego part of their inherent cost advantage of free right of way when they leave the Atlantic Ocean to sail up the St. Lawrence River. Second, inland waterways frequently restrict the size of vessels. The economies of larger ships may not be sufficient to warrant the additional cost of channel improvement. Numerous persons have asserted that the contempated size of the St. Lawrence Seaway will be so restrictive that the inherent economies of ocean transportation will be nullified. A third reason why inland waterways cause shippers higher cost and poorer service than the high seas lies in their greater susceptibility to freezing weather." As I understand it, you have no reason to change the views expressed on pages 71 and 72 at this time.

A. I would not change my comments there. I would add that of course you can't analyze anything, only on one side. You mentioned you took the statement out of context. I would point out that on pages 70 and 71 I mention the

advantages of water transportation. Here I merely am stating the good and undesirable features of water transportation which have to be considered in the later analysis.

• • • • • • •

[fol. 4260] By Mr. Guandolo:

Q. How much traffic will move through the two elevators located on Lake Calumet, the two 6½ million bushel elevators that are now located on Lake Calumet, do you know?

A. I have not made an attempt to estimate what portion of the total traffic those elevators will receive.

Q. You have given us an estimate of the total grain traffic that would move through the Port of Chicago by 1966, is that right?

A. 1966.

Q. What could arise in the future, in your opinion, which could change your estimate so as to express a smaller total than that given by you? What factors, let me say, could change your estimate?

A. Well, I think the most important possibility would be a major economic depression. No one can ever state absolutely there will be no more. One other possibility is that there might be a major reduction in United States exports of grain compared with competing nations.

That would be surprising in view of the fact that we have held our portion of the foreign market rates evenly in the last 17 years, and so long as this government is willing to subsidize exports of agricultural products to make them [fol. 4261] competitive in the world market, as they have done now for over twenty years, I think we will continue to have high exports of agricultural products. No one knows exactly what the future of the farm situation will be. I think it is reasonable to guess, though, or to predict that we will tend to have agricultural surpluses in the future as we do now.

Exam. Albus: How about a prolonged drought in the grain belt?

The Witness: A prolonged drought in the grain belt certainly could reduce the potential, although we did experience that to some extent in the southern part of the grain belt the last three or four years. It didn't have a great deal of impact on grain exports because we had such a tremendous volume of surpluses stored by the Commodity Credit Corporation.

By Mr. Guandolo:

Q. What else could have a bearing on your over-all estimate?

A. Oh, virtually any completely amazing development such as if it is a possibility of competing carriers, east-west rail lines, quoting zero rates to the east coast, very extreme reductions. That might affect it. Of course developments in the competitive area always can change such estimates, although in the large I tried to allow for possible competitive developments in the future.

Q. Anything else, doctor?

[fol. 4262] A. Well, this depends a great deal on the amount of change you have in mind. If it is just a matter of a small change in potentials, virtually any factor that I use in the analysis might change slightly in the next five years and would cause some alteration. I think I mentioned all the factors which would cause major alterations.

Oh, there is a great deal of speculation about the additional size of ocean carriers that could be specially designed for operation on the seaway. It might be they actually can design ships for seaway dimensions that will carry as high as 12,000 tons of cargo. Marine engineering has some flexibility in that respect, so it might be that with years of experience they can build more economical ships and actually move more grain than I have estimated here. I couch most of my estimates in terms of present types of ships that we have rather than future.

One other thing that might cause an increase in the estimate—

Q. I am interested only in decreasing the estimate at this point. You can go into the increase in explaining.

A. I see.

Q. Do you have any other factors?

A. No, I think that is all.

Q. Is that all?

A. Yes.

• • • • • • •

[fol. 4273] THOMAS J. CROWE was sworn and testified as follows:

Direct examination.

By Mr. Chartrand:

Q. Would you state your name and address, please?

[fol. 4274] A. My name is Thomas S. Crowe, vice president, traffic manager of the Illinois Grain Corporation, 141 West Jackson Boulevard, Chicago.

Q. Will you state briefly your experience in transportation?

A. I have been in the grain business for 37 years, transportation field since 1927. I started as a clerk in the grain elevator at South Chicago in 1920.

Q. What is the Illinois Grain Corporation?

A. The Illinois Grain Corporation is a cooperative organization, organized under the state laws of Illinois, affiliated with the Illinois Agricultural Association.

Q. How many members do you have?

A. We have 159 farm bureau country elevators who are members of our organization.

Q. How many individual members do you have?

A. Well, there are at least 5,000 stockholders.

Q. What type of elevator do you operate at Chicago in the Port District?

A. We operate the gateway elevator under a public license as a public elevator issued by the United States Department of Agriculture under the United States Ware-

house Act, and we are subject to accept grain from anybody who wishes to store it or ship it, receive it and reship it.

Q. What is the capacity of your elevator?

[fol. 4275] A. The capacity is 6½ million bushels.

Q. What types of business do you do, and by that I mean, import, export, domestic?

A. We do all types of business.

Q. All types of business.

A. Import, export, domestic, storage.

Q. Via what modes of transportation?

A. We use truck, rail, barge, and steamships, both in and out.

Q. As a public elevator what are your duties in the shipping public under *that status*?

A. Our duty to any public, any shipping public, or any public that buys from us, is to provide service and get it to the port as quick as possible and get it unloaded and then reload it out as quick as possible, depending on the arrangements at the time the contracts are made.

Q. The facilities you might have for loading of grain from box cars into ships would come under this public status?

A. That is right.

Q. Does this include the movement of government grain?

A. Yes, it does.

Q. What types of grain do you handle?

A. We handle all types of grain, wheat, corn, oats, rye, barley, soybeans.

Q. There are no exclusions from the general grains.

A. No.

[fol. 4276] Q. Is there more than one grade of a single grain?

A. Yes, there are. There are several classes of grain. You have wheat, corn, oats, and then you have your classes of number one, two, three, four, five, and sample grade, both in wheat and corn; you have hard wheat, yellow hard wheat, mixed wheat, red wheat, white wheat; in corn you have yellow corn, sometimes white, but that variety now is kind of extinguished.

Q. And there is more than one grain of yellow corn?

A. On oats we have five classes of oats of various types, white, mixed, red, black oats.

Q. How many general classes of corn?

A. Well, one, two, three, four, and five, and sample grades.

Q. Six grades.

A. Six.

Q. Is an export contract for grain specific in the grade requirements?

A. Definitely, it is.

Q. Does that require a selection of the inbound cars to meet those requirements?

A. Two, provided we didn't have it in the elevator, but if that particular grade or contract is specified for a certain ship, and it is marked, reserved, that is the grain that will go on the ship.

Q. Is your elevator devoted exclusively to export business?

[fol. 4277] A. No, it is not.

Q. Do you store grain for long periods in part of your space?

A. Yes, we do.

Q. Is part of the space devoted to domestic business?

A. Yes, it is.

Q. And various parts of it might be devoted to import business, barge business, truck business, rail business?

A. That is right.

Q. Does the export business, the handling of export grain via lake from Chicago, require the direct handling from box cars to the ship?

A. Yes, it does.

Q. Is that the more common manner of handling, or does direct loading from the elevator out of storage predominate?

A. Not in all cases, no, because the elevator might have a certain amount of room and not enough room in order to take in so many cars that are consigned to this particular steamship for export.

Q. Does this accumulation of cars for direct transfer into the ship require an accumulation of cars at nearby points outside of your elevator?

A. Well, the accumulation of those cars should be somewhere within at least a mile of our elevator.

Q. At readily accessible points?

A. Readily available for us when we order the cars to [fol. 4278] the elevator for unloading.

Q. What is the daily carload capacity of your elevator for unloading purposes?

A. We can unload in eight hours anywhere from 50 to 60 cars of grain unless it is one kind of grain, and then we can step up our operation to about seven cars in eight hours.

Q. Could that be trimmed for a 24-hour period?

A. That is correct.

Q. What is your capacity for loading grain?

A. We can load 120 cars in eight hours.

Mr. Dwinell: Unloading?

The Witness: Loading.

By Mr. Chartrand:

Q. What is the capacity of your unloading tracks, and by that I mean the position that cars are in immediately prior to their unloading?

A. We have two unloading tracks. Each track will hold 14 cars.

Q. Are those located at the east end of your dump, east of your—

A. Well, we can operate from either the east or the west. It depends on the superintendent. If he wants to push the cars through the dump and then feed them from the east end, he can do so, which would alleviate any delay because the engine can come in and pick them up as they are unloaded and take them right out, rather than go in through [fol. 4279] the dump and go back to the east to pick them up.

Q. Then there can be spotted at one time 28 cars, and from that point there is no additional need for motive power to put them in a position for unloading.

A. No. We have a truckmobile.

Q. You have your own—

A. Our own pusher, or whatever you call it.

Q. A little switching unit?

A. Yes, a little switcher.

Q. What is the capacity of your loading tracks?

A. We have two loading tracks, 12 cars on each track.

Q. Where are inbound cars of grain next held if your unloading tracks are full to capacity?

A. Well, we have a hold track in the middle between the unloading tracks and the loading tracks which will hold 14 cars, and then the port yard—I don't know how many they allocate to us, but the other day I checked with the yardmaster, and he was allocating about 50 cars for each elevator. That would be Rice Powell and ourselves.

Q. Do I understand you correctly that you can thereby accommodate aside your elevator or on the unloading tracks a total of 42 cars for unloading?

A. That is right.

Q. Then the next hold track position for inbound cars would be at the port yards?

[fol. 4280] A. That is correct.

Q. Do you share those tracks with other businesses within the port?

A. Well, it is my understanding that all cars are congregated there for distribution to the port.

Q. Do you have exclusive use of the 50 car capacity you mentioned a moment ago?

A. No, I have no exclusive use of it. I can't say that I am going to confine the yard or that particular track to hold 50 cars for me.

Q. Has the Chicago Port yard always been adequate to hold all of your inbound cars?

A. Up to the present time, it has.

Q. If the port yard was full to capacity, where would your inbound cars next be held?

A. They would be held at 115th Street, which is Pullman, and then at South Chicago.

Q. Just a moment, Mr. Crowe. 115th Street; to date have you had any of your inbound cars held at that yard?

A. Yes.

Q. You stated a moment ago that at no time has the port yard been—in so far as you were concerned—loaded to capacity. Why would cars be held at 115th Street Yard if there was room within the port?

A. I don't know why they were held there. I mean, the [fol. 4281] yard wasn't congested at the port, and as I understand it, the feeder yard is 115th Street, and also South Chicago Yard.

Q. So some of your cars have then be held at 115th Street.

A. Oh, both, yes, 115th Street and South Chicago.

Q. Where would your inbound cars be held if the Pullman Yard or the 115th Street Yard were full to capacity?

A. That would be at South Chicago.

Q. Is that synonymous with 95th Street?

A. That is right.

Q. Have you to date had any of your inbound cars held at South Chicago?

A. Inbound loads or inbound empties?

Q. Inbound carloads of grain.

A. Yes, it has been up there. They classify them at 95th Street. That is where we get most of our information. We know what we got at the port first thing in the morning. Then we check Pullman and South Chicago, what can we expect to receive during the day.

Q. And the location given you for those cars is at 95th Street.

A. That is right.

Q. Suppose they advise you that certain cars are on the track at 95th Street. How would—how do you get those down to your plant if you need them?

[fol. 4282] A. Our chief clerk orders all cars delivered to the gateway elevator, regardless of where they are.

Q. Does it take very long to get them down from 95th Street?

A. Well, let's see. We are 128th Street, 95th Street, not too long. I would say around—oh, at the most, an hour.

Q. Does an engine from 95th Street bring them down?

A. Not all the time, no. Sometimes we have to send our engine up to 95th Street to get them to bring them back.

Q. Do you have an engine?

A. We call it our engine, furnished by the Rock Island.

Q. Furnished by the Rock Island.

A. That is right.

Q. Is that an engine for your exclusive use?

A. I understand it is.

Q. Does the elevator have their engine?

A. I understand they do.

Q. Do the general commodity sheds down at the east end of the lake have their engine?

A. I am pretty sure they do. That is my understanding.

Q. What are—what is the maximum number of cars you have unloaded in any one day since you have been operating?

A. I think it is around 46 to 48 cars.

Q. When did you start operating that elevator?

A. We assumed the operation of the elevator June 1, 1957.

Q. June 1 of this year. On a maximum day's business of [fol. 4283] 48 inbound cars you have had an engine for your exclusive use.

A. I can't be sure on that, because at the start, when we started to operate the elevator, we didn't have an engine there for our own use. There might have been one or two there, and they did other work for the port besides ourselves.

Q. What about the present time?

A. At the present time we have an engine.

Q. If you wanted to go to the 115th Street Yard to get a couple of cars, you can send them there.

A. With the permission of the yardmaster.

Q. Oh, sure. I mean, it is available for your use.

A. That is right.

Q. Likewise, if you had two cars at 95th Street or South Chicago, with his permission you could send it up there.

A. Correct.

Q. For 48 cars maximum unloading per day.

A. That was all the cars we had that particular day.

Q. Do you know where the Rock Island would hold cars if the South Chicago yard were located to capacity?

A. I believe their next yard is at Gresham, at 87th Street and Vincennes, and beyond that it is Bureau or Blue Island.

Q. Have you had any cars detained at those points to date?

A. No, I haven't.

Q. South Chicago would be as far as you have had cars—

[fol. 4284] A. That is right.

Q. Do you anticipate any real congestion if the port tracks remain the same size and the port is further developed to include the construction and building of other industries?

A. Do I foresee any delay?

Q. Congestion.

A. Well, based on our experience, in running the Irondale elevator, which we did from 1949 to 1957, that housed a capacity of two million bushels. We handled in that period of years 48,000,000 bushels. Today we have a 6½ million bushel house, which is almost three and a half times larger than the Irondale. So we assume with the experience we had at the Irondale, which would handle anywhere from 7 to 8 million a year, we should run in totals of 24 to 25,000,000 at the Gateway. That will cause congestion. I don't think the railroads—I mean, not being biased against any railroad, but I don't think one railroad can serve an elevator that works that fast.

Q. If the other elevator, the Rice Powell elevator, did like business, would that further create a further problem?

A. I would say yes, definitely.

Q. If there would subsequently be constructed within the port district another 10,000,000 bushel elevator, would that likewise add to the problem?

A. Definitely.

[fol. 4285] Q. You referred to Irondale elevator. Was that a public house, a public elevator, or was that for your own exclusive use?

A. That was a public elevator, licensed under the same Warehouse Act.

Q. Does your company execute charter contracts?

A. Yes, we do.

Q. What is a charter contract?

A. Well, a charter contract is made with a steamship owner to take so many bushels of grain out of your elevator at a certain time. It is not a definite statement of time. It is an expect-to-load at a specified time. You can't pin those fellows down because of transportation, weather conditions, and so forth.

Q. Is there some provision in the charter contract that makes due allowance and gives the ship some latitude in their time of arrival?

A. That is correct, yes.

Q. What is this provision called?

A. That is the layway, or whatever—

Q. Layday clause?

A. Lay day.

Q. What does a layday clause generally provide and the amount of time usually requested by the steamship company?

A. Well, it varies. The time would run anywhere from [fol. 4286] 10 to 20 days, and he is not responsible for any delay whatsoever on any grain that is moving into the house or in transit to the house.

Q. Of course the amount of time or the variation in time in a particular charter contract, the layday clause, would vary from steamship line to steamship line.

A. That is right, and if the steamer is there at your dock and you haven't got the dock, then he penalizes you.

Q. Is there an obligation by you as an exporter to have your cargo accumulated and available on the first day of the layday period?

A. Right, we are.

Q. Assume for the moment a layday period of five days, considering Monday through Friday as the layday period, that if the ship did arrive on Monday, that you are obliged to have accumulated and waiting the entire cargo.

A. That is correct.

Q. If the ship arrives on Friday, you are likewise to have the cargo then and there available for the ship for loading.

A. That is right.

Q. Does this lead to a necessary accumulation of cars because of the inherent nature of shipping by water?

A. That is correct, yes.

Q. And inherent in the export business.

A. Definitely.

[fol. 4287] Q. Not only at Chicago, but at any other port?

A. Any other port, New Orleans, Baltimore, Philadelphia.

Q. These layday provisions in the charter contracts appear in all charter contracts out of all ports.

A. I would say yes. Now, I am not familiar with Baltimore, Philadelphia on the layday plan, but I know here at Chicago.

Q. Do you know any of the Texas ports, any of the Gulf ports?

A. I know quite a bit about New Orleans.

Q. Are there in fact real variations in the arrival of a ship for loading?

A. Yes, there are.

Q. Are these variations in time completely beyond the control of you as an exporter?

A. Definitely. We have no control whatsoever over them.

Q. Now, in accumulating cars for cargo, realizing that on a certain Monday the ship is due to be there, do you

attempt to order in from the country by carload grain to fulfill that cargo?

A. Well, we have to—that is, in my end of the transportation field, yes. The sale is made for a definite amount and a definite grade of grain, and if we haven't got it right available at the loading point at the elevator, then we have to go out in the country and get it loaded and bring it in.

Q. And would other members of the shipping public that [fol. 4288] were merely going to use your house for transfer purposes into the ship have the same problem of ascertaining a time at which cars would be ordered out of the country for a particular vessel cargo?

A. Sure, they would.

Q. Now, what has been your experience in so far as the variations that occur in the in-transit time from origin to Chicago when the shipments move by rail?

A. Well, I have a sheet here that I report on all the cars that were handled at the Gateway elevator since we started operating. That will show the figures that I have on here as showing the point of origin, inbound road, initial and the car number, date ordered, date placed, and date unloaded.

Q. Well, Mr. Crowe, did you give the transportation department of the Chicago Board of Trade permission to take directly from your records, from your files, those figures that reflect your receipts of grain since you started operating as to the point of origin, the car number and initial, the waybill date, the date you ordered it from the inspection track, and the date you unloaded the car? Was that permission granted by you?

A. Yes, sir, it was, because as members of the Board of Trade, we must assist the transportation department.

Q. We will have a later witness that will put that evidence in, and we will hold Mr. Crowe available if you [fol. 4289] would like to cross examine him with regard to the figures.

Are those figures, in so far as the columns referred to, true and correct to the best of your knowledge and belief?

A. Yes, they are.

Q. Apart from the statement and going to your general experience, are there marked variations in time, in the in-transit time, of cars handled from country origin point to Chicago by rail?

A. Yes, there is a variance, definitely.

Q. Is that a variance beyond your control?

A. Yes, it is.

Q. When these cars arrive at Chicago, are they first put upon an inbound rail carrier's inspection track and there sampled as required by law?

A. That is right.

Q. Is it important to you that after the car has been sampled and you are aware of the kind of grain and the grade, that that car should then be readily accessible to you should you need it for quick loading into a ship's cargo?

A. Very much so, yes.

Q. Is it important to you that that car be hours away instead of days away?

A. Definitely, yes.

Q. Would you care to make a general statement, and apart from the specific examples that will be later referred [fol. 4290] to, a general statement as to the kind of service you are receiving today?

A. From which railroad?

Q. The way cars are handled today—

A. You don't refer to the inspection tracks.

Q. Well, I am thinking of terminal handling within Chicago, by and large is it good, fair, or bad?

A. I will say it is fair.

Q. Would it run from fair to good or from fair to bad?

A. It goes from fair to good and good to bad. I don't want to go on that, Mr. Chartrand.

Q. That is all right. The record would speak for itself, would it not? Mr. Crowe, is it your position here that you are not finding particular fault with the Rock Island's service, but seeking to improve, if there would be any way possible, the service into your elevator?

A. That is correct. I am not here opposing the Rock Island. I am trying to secure more facilities for inbound and outbound loading by more service from other railroads, if it is possible.

Q. Which you believe will improve the service that you have today.

A. Definitely improve it. I have had experience with two roads already, and I know it.

Q. Have you ever been traffic manager for an elevator [fol. 4291] that had more than one line serving its facilities?

A. Yes, I have.

Q. When an inbound car of grain arrived on an inspection track, could you, in making disposition of that car, order it to the elevator via one of the delivering lines or the other delivering lines at your choice?

A. That is right.

Q. Then if there were several ways that grain could be routed from, let's say, the Bensenville Yard of the Milwaukee to the Port of Chicago, that you would expect to have the freedom in selection of the delivering carrier from the Milwaukee inspection track to your elevator at the port?

A. Yes, I would want that, because of various kinds of grain, that I would need to load a ship, I would order that in first, and I would want to get the quickest service to my elevator that I possibly could get.

Q. There may even be instances where, on your domestic business, for example, time would be not quite as important as it would be on export, and therefore you might split the business up, depending on your immediate needs.

A. That is true. It is not quite as important, but it still is important, our domestic business.

Q. Why?

A. Because we make sales, immediate, quick, and prompt. Immediate is three days; quick is five days; and prompt [fol. 4292] is ten days. That means cars have to be loaded within those periods.

Q. Have you anything further to add—then do I understand you correctly that you support these applications in the firm belief that they will improve your service into the port and the accessibility of the cars when on those carriers to meet your requirements?

A. Yes, I do. I firmly believe it will help us.

Q. Is it important to you that—is there a portion of the year where you will utilize the facilities of the north Atlantic ports in continuing your export business?

A. Yes.

Q. During the closed navigation—

A. Closed navigation between—I would say it is around the first of December until about the first of May the following year.

Q. Do you deem it an advantage to have direct—that eastern carriers have direct access to the port to expedite the movement of cars from your elevator to the north Atlantic seaports?

A. My experience has proven so, yes.

Q. Is it your belief that with the additional lines seeking rights into the port and there available accumulated hold track capacity—

Mr. Broker: There is no proof that they have available [fol. 4293] hold track capacity. You are assuming a fact.

* * * * * * *

Cross examination.

By Mr. Dwinell:

* * * * * * *

[fol. 4301] Q. Do you know of the plan of the Rock Island, if, as, and when the port tracks are constructed on the west side of the lake, to have a north entrance into the lake?

A. No, I do not.

Q. Do you know any of the plans of the Rock Island for enlarging, if and when it is required, the 97th Street yard and the 95th Street Yard?

A. No, I don't.

Q. Now, you spoke of the fact that if your elevator were working, the Rice Powell were working, and a new elevator might be constructed, and it was working, that there would be congestion or might be congestion.

A. Might be congestion.

Q. Might be.

Now, would that congestion be at or in the immediate vicinity of your elevator, the Rice Powell elevator, and this new one which we will call the ABC elevator, would that be where the congestion would occur, some congestion?

A. It could be, but I don't operate the Rice Powell elevator. I operate the Gateway.

Q. Yes.

A. I know the service I get from the Rock Island. There will be congestion because it has to back up on us from [fol. 4302] 129th Street to 95th Street.

Q. No. I was asking what congestion will there be in the immediate vicinity of your elevator.

A. The congestion might be for the whole port itself.

Q. East of the tracks.

A. I don't know how many cars the warehouses have ordered in there or what they handle.

Q. I know that. I am asking whether there would be congestion in the port, within the port itself, if your working capacity, Rice Powell working capacity, and the new ABC elevator—

A. Yes, there would be congestion there.

Q. There would be congestion right in the immediate vicinity. Now, the congestion that would be there, if there be any, could be accentuated, or it could be reduced by the facilities which the railroads might have outside of the immediate territory—I will say within three or four or five blocks of your elevator on the west side of Doty Avenue. That might be relieved or accentuated by the presence of facilities which the railroads might have outside of the Port District and from which or to which cars would go from your elevators, is that right?

A. Provided, as you stated, they are going to make at these various outside yards.

Q. No. I wasn't talking about that. I said that the con-
[fol. 4303] gestion which would occur in the immediate vicinity might be increased or decreased. I am not talking about our facilities now. It might be greater; it might be less, depending upon whether there would be these outside facilities in the immediate neighborhood off of the property of the port where cars could be classified and stored.

I am not making myself plain.

A. No, you are not, on that question.

Q. I want to make myself plain.

Let me put it this way. You, in the operations of your elevator, might have two troubles; one, congestion of cars in the immediate vicinities of your elevator; or congestion outside of the property where it would interfere with taking cars away and getting rid of them, so far as you were concerned, or bringing in a new supply of cars for you to handle. In other words, there might be two things that might hurt you, is that right?

A. That is right.

Q. Inside and outside the district.

A. That is right.

Mr. Chartrand: Mr. Dwinell, are you speaking inside or outside of the Port District?

Mr. Dwinell: The Port District. West of Doty Avenue, right on the property itself.

By Mr. Dwinell:

Q. I am now confining myself to the congestion which
[fol. 4304] might occur inside the Port District, right at your property. That congestion could be increased or decreased, dependent upon the outside facilities of the railroads to provide a place to which the cars could be taken quickly or from which cars could be brought into the dis-

trict, quickly and expeditiously. It could be influenced one way or the other.

A. That is right.

Q. You stated that the place outside the district, where cars ought to be held—I understood you to say a half a mile or a mile, did you say that?

A. Well, I figured that the tracks at the Gateway elevator beyond what feeds the elevator itself—I don't know how many, I think there are 14 tracks there, supposed to hold cars for everybody in the port—I would say that is about a half a mile from the elevator.

Q. Those were the tracks to which you were referring.

A. Those are the port tracks. I think they built them themselves.

Q. That is right; that is right. Then the other tracks which would be operated by the railroads outside the Port District, they ought to be located closely also, ought they not?

A. That is right, yes.

Q. I forgot; if a boat comes in, can you load cars di-
[fol. 4305] rectly to that from a railroad car?

A. Yes, sir.

Q. How many of those can you handle an hour?

A. The same amount.

Q. The same amount as this.

A. That is right.

Q. So, in other words, at one time you could be handling 14 cars in an hour and 30 minutes through the elevator, and 14 cars outside of the elevator. So it would be 30 an hour.

A. You are speaking of unloading?

Q. Unloading.

A. No. The question of unloading into a steamer—we could handle the same amount of cars on the car dumper as we would going into the house as going on to a steamer.

Q. That is right. That is what I said. Fourteen cars in an hour and 30 minutes through the elevator, and 14 cars to the steamer direct.

A. Right.

Q. Which would be 28 cars in an hour and a half.

A. Yes.

Q. That would be your capacity. You have already told me that you do not operate the Rice Powell, but could you tell me whether or not they have a duplicate operation, so far as—

A. I think they do, from plans I have seen. They are supposed to be a duplicate of our house.

• • • • • • •

[fol. 4318] October 8, 1957

• • • • • • •

R. D. Erickson was sworn and testified as follows:

Direct examination.

By Mr. Chartrand:

Q. Will you please state your name and address?

A. R. D. Erickson.

Q. Will you kindly state by whom you are employed and in what capacity?

A. I am employed by the Board of Trade of the City of Chicago as assistant manager of the Transportation Department.

• • • • • • •

[fol. 4321] The Witness: My next exhibit, H-67, is an eight-page exhibit with a symbol 499 in the lower left hand corner.

(Exhibit No. H-67, Witness Erickson, was marked for identification.)

The Witness: This exhibit is a portrayal of producing areas of various grains. Referring first to page 1 of this exhibit, we will find one dot for each 10,000 acres on a county unit basis of all wheat threshed in the year 1949. We have used the 1949 map for want of a later map at

the time this went to press. We do have and will explain later other statistical data in here that indicates that the same information relatively is true today. Superimposed upon this map is a large black line which indicates the area that is particularly tributary to Chicago and embraces substantially all of the producing area, or I should say, a greater part of the producing area of these various grains.

Page 2 is a similar map covering corn acreage.

Page 3, oats; page 4, rye; and page 5, barley. These five pages all carry the identifying large black line, indicating the area tributary to Chicago.

If you will please turn to page 6 you will here find a statement of production of grain in the states tributary [fol. 4322] to the Chicago market shown in terms of average production for the years 1945 to 1954, for the year 1955, for the year 1956, of the various states embraced in these areas, some 14 in all, and also the total thereof, and below that the U. S. production as a whole, again stated in terms of each of the grains, and they appear respectively on pages 6, 7, and 8. I would like to refer to page 6 in terms of the wheat, to begin with. It will be observed that this area produces 64 per cent plus of all the wheat in the United States. Seventy per cent was true in 1955. My first figure related to the 1945-54 average, and in 1956, 65 per cent. It will also be noted that the production increases, 1956 over the averages lies in the states of Illinois, Missouri, and Montana.

As we go to the category below relating to corn, where similar information is shown and in similar manner, we find that the ten-year average production was 72.92, or almost 73 per cent of the total of the U. S. production; in 1955, over 70 per cent, and in 1956, 72.84 per cent or almost 73 per cent. It will here also be noted that there have been tremendous gains in production in such states as Michigan, Indiana, Illinois, Wisconsin, Iowa, and Missouri over the average when we compare the 1956 with the over-all average.

In the following pages we will note that 81 per cent of the oats was produced in this territory, 78 per cent of the railway (sic), 56 per cent of the barley, and 80 per cent of [fol. 4323] the soybeans.

By Mr. Chartrand:

Q. Those last figures you gave are based on the ten-year average.

A. Based entirely on the ten-year average. Similar information is shown in the other columns for the respective years.

This gives a picture of the area from which Chicago may expect to draw grain, both for domestic and for export movement in the future with the opening of the St. Lawrence Seaway.

• • • • • • •

[fol. 4338] By Mr. Chartrand:

Q. At that point, do many of those deep water elevators referred to use the elevator for their exclusive use?

A. They are all public elevators.

Q. They are all public elevators.

A. Yes, sir. Of those ten you are referring to.

Please be referred to page 5. This is the map portion and bears the letter C, which indicates the location of grain elevators located north of 79th Street. These can be matched with the code on page 4, and for the purposes of illustration, I will call attention to code number 20, which is located at the Galewood Yard or around Cragin, and it is the Glidden elevator adjacent to their soybean processing facilities. It is not the larger of the Glidden elevators, but it is the smaller of the Glidden elevators.

Mr. Dwinell: That is Glidden B?

The Witness: That is Glidden B, that is correct. While we are at that point, counsel, I call your attention to the [fol. 4339] fact that there is no water symbol following Glidden B, but only following Glidden A.

By Mr. Chartrand:

Q. Where on map C is the Corn Products elevator, number 14?

A. It is located in the lower left hand corner in a territory described as Argo.

Q. What railroad serves Corn Products?

A. Corn Products is served by three belt lines and one trunk line, the GM&O, the B&O-CT, the Belt Railway, and the Indiana Harbor Belt.

Q. Today how many lines are involved in across town movement?

A. It could be a single line.

Q. Today.

A. Today it could be a single line movement from an industry located on the Harbor.

Q. Excuse me. How many lines are involved in across town movement from a port elevator to Corn Products?

A. Today there are at least two.

Q. Are any of these lines applicants in this proceeding?

A. Yes. The Indiana Harbor Belt and the Belt Railway of Chicago.

Q. If those applications were to be successful, how many lines would be involved in across town movement?

A. One.

Q. Proceed.

[fol. 4340] A. The following map, page 6 of this Exhibit H-72, portrays very graphically the density of the location of grain elevators around the waterways, either directly in Lake Calumet or between Lake Calumet and Lake Michigan. It will be noted that the greatest volume—and we might take Continental A as number 10, we can take Cargill as number 7, as points of illustration, and it will be seen that the greatest receiving capacity and handling capacity is located immediately within the area, and with the new development in Lake Calumet, numbers 27 being the Rice Powell elevator, and number 18, being the Gateway elevator, the greatest volume of grain natu-

rally will flow where the greatest capacity exists in public facilities.

• • • • • • •

[fol. 4348] The Witness: This is a study of time in-transit of cars received at the Gateway elevator which Mr. Crowe alluded to in his testimony. This covers a period of June through August 1957. Its construction I will deal with in just one moment, but I want to make a few basic references at this point.

This represents over a thousand cars of movement also as did the other study, and it represents all of his receipts car lot during this period.

• • • • • • •

[fol. 4356] Mr. Dwinell: The next column, "X-Town," two days, is the difference between the time that it was ordered from the Illinois Central and placed by the Rock Island on the track.

The Witness: Right.

Mr. Dwinell: And that column includes the time that it took for the Illinois Central to move that from its Markham Yard—

[fol. 4357] The Witness: That would be Markham there, yes.

Mr. Dwinell: Yes, Clifton, Illinois. That includes the time that it took the Illinois Central, after it got the order, to take that up and give it to the Rock Island on its interchange track at 115th Street, and then the time that it took the Rock Island to take the car from 116th Street and place it on the track.

The Witness: That is right, sir. I am not trying to say that that is the time the Rock Island consumed. I am saying that is the total time.

• • • • • • •

Mr. Dwinell: Just a minute. That includes the time it took the Milwaukee to give that to the Indiana Harbor [fol. 4358] Belt or the Indiana Harbor Belt to get it from

the Milwaukee, transport it, place it on the receiving track of the Rock Island at 115th Street; then for the Rock Island to put it at the Gateway elevator, the six days includes everything.

The Witness: Yes, sir.

• • • • • • •

[fol. 4368] THOMAS H. COULTER was sworn and testified as follows:

• • • • • • •

Direct examination.

By Mr. Schwietert:

Q. Will you state your name?

A. Thomas H. Coulter.

Q. What is your position?

A. I am employed by the Chicago Association of Commerce and Industry as its chief executive officer.

Q. How long have you held that position?

A. Since January 1, 1954.

Q. Will you state briefly your education and business experience prior to January 1, 1954?

A. I attended Carnegie Institute of Technology, graduating in 1933 with a Bachelor of Science degree. I then entered the University of Chicago and received my Master of Arts degree in 1935. From 1935 to 1936 I was employed by Shaw & Company, Chicago investment analysts.

From 1936 to 1945 I was employed by Universal Zonolite Insulation Company, Chicago in several capacities, in- [fol. 4369] cluding general sales manager and vice president. During this period I developed an international organization to manufacture and sell this company's products and spent two years establishing new plants in Australia, India and the far east.

In 1945 I was employed by Booz, Allen & Hamilton, a management engineering firm in Chicago, as manager, business and product development, business planning and partner.

During 1950 to 1953 I was president of the American Bildrok Company. I assumed my present position January 1, 1954.

Q. Mr. Coulter, what is the Chicago Association of Commerce and Industry?

A. The Chicago Association of Commerce and industry is a voluntary organization of individuals, firms and corporations organized and existing under the laws of the State of Illinois. It has 5,891 members. The total number of individuals identified with our association activities is 9,604. Through committees and a paid staff, these individuals join together to work in improving the city's commercial, industrial and civic operations. While the name of my organization is The Chicago Association of Commerce and Industry, it functions as the chamber of commerce for the Chicago metropolitan area.

Q. What are the principal functions of your association?

A. The association works to promote the business of the Chicago area and of its members by improving transporta-
[fol. 4370] tion services and rates; by keeping rates and services properly related to other communities, including port cities; for further developing Chicago's many advantages as a business location and for improved business laws which form the framework within which Chicago business operates.

The Association was founded in 1904. Funds to carry on its operations come from membership dues paid by Chicago business firms and professional men and women. About 1,400 members serve on a wide variety of permanent or special committees. Each committee is composed of people chosen for their standing in the community and for their wide knowledge in some particular field of business of civic endeavor. An example of this committee activity is the work of our Transportation Committee, the Harbors and Waterways Committee, the Aviation Committee, the Postal Service Committee, the World Trade Committee, and the Industrial Traffic Council. The Industrial Traffic Council is made up of approximately 325

traffic managers of industrial concerns located within the Chicago metropolitan area.

Q. Describe briefly the Chicago metropolitan area.

A. The Chicago metropolitan area has been designated as such by the United States Department of Census, and comprises an area including five counties in Illinois and one county in Indiana. In this area is included not only the City of Chicago, but approximately 180 surburban or [fol. 4371] satellite communities. This area, with some of the principal towns and cities in it, is illustrated on Exhibit No. H-79, page 1. Within this area are located 14,500 manufacturing establishments, where a total of 2,800,000 people are employed. The population of the area is estimated at 6¼ million. This Chicago metropolitan area extends for miles around Lake Michigan, roughly from Gary, Indiana to Waukegan, Illinois. Along Lake Michigan this area is solidly built up for 69 miles. Through the central part of the metropolitan area due west of Chicago it is built up solidly, with minor exceptions, for 25 miles. The Chicago metropolitan area is comprised of 3,617 square miles which is an area larger than the combined states of Delaware, Rhode Island and the District of Columbia.

Q. Are you familiar with the issues in these proceedings?

A. Yes. The issues involve proposed new railroad service to the Port of Chicago located in Lake Calumet.

Q. What is the position of the Chicago Association of Commerce and Industry?

A. It is the position of our association that the best interests of Chicago and the Chicago Port District would be served if more than one carrier were given access to port facilities and serve the Chicago Regional Port District.

Q. Will access to the port by additional carriers benefit shippers and receivers located outside of the Chicago metropolitan area?

[fol. 4372] A. Yes, in my opinion, it will benefit shippers in that large section of the midwest that uses the Port of

Chicago for export and import traffic, and on other traffic interchanged between different types of carriers at port district facilities.

Q. How was the position of the Chicago Association of Commerce and Industry arrived at?

A. The question of the association's participating in this proceeding was considered at two meetings of the Transportation Committee and at two meetings of the Harbors and Waterways Committee. The recommendations of these two committees were then submitted to the board of directors who approved the recommendations that the association intervene and testify in support of additional carrier service to the Chicago Regional Port District facilities.

Q. Will you proceed with your statement to show why, in your opinion, the completion of port facilities proposed by the Chicago Regional Port District will be needed within ten years after the St. Lawrence Seaway construction has been completed?

A. The development of the Great Lakes-St. Lawrence Seaway project will permit most of the ocean-going vessels of the world to enter the Great Lakes and dock at the Port of Chicago. The present time table calls for the deepening of the Seaway to be completed in the fall of [fol. 4373] 1958 and ready for operation in the spring of 1959.

A considerable volume of export and import traffic now moves through the present 14 foot channel. The first steamship company established regular overseas service between Chicago and European ports in 1933. By 1950, eighty vessels called at the Port of Chicago and by 1956 this had grown to 264.

As shown in Exhibit No. H-79, page 2, the total export and import overseas traffic increased from 87,128 tons in 1950 to 237,206 tons in 1956. In addition, in the year 1955 there moved through the Port of Chicago 477,669 tons of traffic imported from Canada and 1,122,160 tons exported to Canada. Statistics on exports and imports to and from Canada for the year 1956 are not yet available. Total

waterborne traffic from and to the Port of Chicago for the year 1955 was 71,490,510 tons. This includes overseas and Canadian export and import traffic as well as waterborne domestic traffic moving on the Great Lakes and on the Illinois waterway.

While we do not have a record of the total number of firms doing an export and import business, I know that there are a substantial number located within the Chicago metropolitan area and that they do a fairly large volume of business. Our World Trade Division certifies documents for exports to those countries requiring such certification. During August of 1957 this division certified 518 documents for 68 exporters covering shipments to all parts of [fol. 4374] the world except Iron Curtain countries. Some of our exporters and the commodities shipped are as follows:

Swift & Company—meat packers, feeds, soaps and cleansers

A. J. Alsdorf Corporation—automotive parts, home appliances

Libby, McNeill & Libby—food products

Abbott Laboratories International Company—pharmaceuticals

International Harvester Company—agricultural equipment and supplies

Armour & Company—packinghouse products, feeds, canned goods

G. D. Searle & Company—pharmaceuticals

General Biological Supply House, Inc.—biological supplies

Soiltest, Inc.—testing apparatus

Inland Steel Products Company—steel products

Zenith Radio Corporation—radios and television receivers

Podbielniak, Inc.—laboratory distillation apparatus, centrifugal extractors

Hammond Organ Company—Hammond organs

Felt Products Company—gaskets

Independent Casing Company—sausage casings

International Packers Limited—meat packers

Union Special Machine Company—machinery, bag closing

Tee-Pak, Inc.—sausage casings

The Glidden Company—paint manufacturers

The Simoniz Company—wax

International Minerals & Chemical Corporation—chemicals

[fol. 4375] The above is only a partial list of the industries exporting through the Port of Chicago and, of course, only a partial list of commodities. A complete list of commodities and the volume of traffic may be found in a report of the Department of the Army, Corps of Engineers, titled "Waterborne Commerce of the United States, Calendar Year 1955, Part 3, Waterways and Harbors—Great Lakes." Furthermore shipments shown do not represent all of the shipments made from the Chicago metropolitan area during the month of August since many foreign countries do not require certification of documents. Where certification is not required by the chamber of commerce at point of billing, shippers obtain certificates made at the port of export and our office does not have records of these shipments, nor have we any way of determining the total volume.

As a further indication of the volume of export-import traffic at the Port of Chicago we have approximately 200 export sales organizations located within the Chicago metropolitan area who act as the export shippers and agents for many firms located within the midwest.

Our World Trade Division has a regular bulletin going to all members of our Association who have indicated a special interest in export-import matters and have asked to be advised of such matters. The bulletin is mailed to approximately 1,800 individuals.

According to a review of the importance of foreign [fol. 4376] markets to products produced in the midwest, the Federal Reserve Bank of Chicago stated that the five states of Illinois, Indiana, Iowa, Michigan and Wisconsin originated 22.9 per cent of total United States non-agricultural exports.

As shown in my exhibit, page 3, during the year 1957 there were twenty-one foreign lines providing overseas service from and to Chicago. When the St. Lawrence Seaway is completed this number will become much larger. Applications have been filed by Isbrandsten Line, United States Lines, Grace Lines and T. J. McCarthy for authority to operate from and to Great Lakes ports. While an application has not been filed by the Moore-McCormack Line we understand that they are also planning to establish service from and to Great Lakes ports when the seaway is opened. In addition, there will be other foreign lines entering the Great Lakes trade. With this additional service it is anticipated that overseas export and import traffic will increase substantially, and that within five years the traffic moving through the Port of Chicago is estimated at one and one-half million tons, or six times its present volume.

Export and import traffic moving through the Port of Chicago will originate or be destined to points beyond the Chicago metropolitan district. Page 6, the map, shows the areas of advantage possessed by leading Great Lakes ports. This study is based upon a comparison of class rates [fol. 4377] to the Great Lakes ports in comparison with export rates applicable from interior points to the Atlantic, Gulf and Pacific Coast ports shown on the exhibit. The shaded area indicates that the rates to the Great Lakes ports are the same as or lower than the rates to Atlantic,

Gulf and Pacific Coast ports. It will be noted that of all the Great Lakes ports Chicago serves the largest area with the exception of Duluth. The Chicago area, however, is much more highly developed industrially than is the Duluth area which is confined primarily to agriculture.

Of the nation's 171 Standard Metropolitan Areas, 26 are located within the area which Chicago can serve most economically. These 26 areas in 1950 had a total population of 12,970,000. From an industrial standpoint, census studies indicate that the 26 metropolitan areas located within the same Chicago rate area had a total value added by manufacture of $16,444,491,000 or 14.1 per cent of total for the United States.

A comparison of retail sales tells a similar story. Twenty-six of the 188 metropolitan areas with combined retail sales of 16.7 billion dollars are located within the Chicago area. Retailers are among the nation's most important distributors of imported goods. Within the area which the Port of Chicago can serve more economically than any other port—from a transportation cost standpoint [fol. 4378] —are located the United States Center of Industry, which is near Chicago, the United States Center of Population, 200 miles south of Chicago, and the United States Center of Agriculture, 250 miles southwest of Chicago.

Our association is currently engaged in a survey of the entire midwest area to determine potential traffic through the Port of Chicago. This will include territory beyond that, from and to which Chicago has a freight rate advantage, since other factors, such as superior and direct rail and truck service, are involved and we believe will influence the movement of traffic through the Port of Chicago. In addition Chicago is the only port on the Great Lakes have a water connection with the Mississippi River System. Traffic can be brought into Chicago by barge from the entire Mississippi Valley and transferred to ocean-going ships. The use of water transportation will thus

increase the area from and to which Chicago has an advantage in comparison with other Great Lakes ports.

There is now under construction a widening of the Calumet Sag Channel from 60 feet to 225 feet connecting the Port District facilities and Lake Calumet with the Chicago Sanitary and Ship Canal at Sag Junction, thus providing an adequate channel connecting the Great Lakes with the Mississippi River system. This project is scheduled to be completed in 1961, although much of the widening has already been done.

During World War II and the postwar period Chicago [fol. 4379] has had a tremendous expansion in industrial facilities. This expansion has been greater than at any other city in the United States.

Exhibit, page 7, shows the value in investments of industrial plant facilities in the Chicago metropolitan area during World War II and in the postwar period 1945 to 1956 inclusive.

Page 8 shows the expansion in the postwar period from 1945 to 1956 broken down as to the number of plants and other plant investment projects. The other plant investment projects include expansion of existing plants and the acquisition of and or buildings for industrial use.

It is our considered opinion that not only will this industrial expansion continue during the next decade, but that with the opening of the St. Lawrence Seaway and the completion of the Calumet Sag navigation project the rate of expansion will be accelerated. Many heavy industries such as iron and steel, heavy machinery and chemicals prefer industrial cities with water front facilities.

I have a little insert I would like to put in. While the metropolitan area of Chicago experienced a very high level of industrial expansion during and since World War II, the years 1955 and 1956, the last complete years for which the association has records, show an acceleration of industrial expansion in this area. Announced construction proj- [fol. 4380] ects for expansions and new plants in these two years totaled $1,077,330,000. Much of the actual construc-

tion announced in these two years has been completed; some is under way, and other projects are yet to begin.

May I cite a few examples. Most of the announced expansions by the steel industry are underway. For the two years under consideration announced expansions by the steel-making industries total $659,850,000 or 61.2 per cent of the total two-year figure. These expansions are almost exclusively limited to the Calumet area.

Expansions announced for the chemical and petroleum industries totaled 93,501,000 or 8.7 per cent of the two-year total. These projects are also located almost exclusively in the vicinity of waterway facilities.

Sinclair, Standard, Pure, Clark, Cities Service, these prominent names in the oil industry and heavy users of the waterways, have all announced large expansions of their facilities. Ethyl Corporation has purchased 275 acres of land south of Joliet upon which it has not yet begun construction. Amoco Chemicals Corporation, a subsidiary of Standard Oil Company of Indiana, has just begun construction of its plant on a 400-acre site adjoining Ethyl's. Other chemical operations which have announced large plant expansions in the past two years are Dawe's Laboratories, Inc., Union Carbide & Chemical Corporation, National Cylinder Gas Company, Linde Air Products Com-
[fol. 4381] pany, Boyle-Midway Company, Inc., Air Reduction Company, Inc., Lever Brothers Company, Procter & Gamble Manufacturing Company, and Sherwin-Williams Company.

In addition to the many heavier type industries, the Chicago area has seen a tremendous construction program involving many plants in excess of 100,000 square feet and several containing in excess of 1,000,000 square feet. The following are just a few of the names of large corporations with plants either completed, under construction, or proposed at the present time: Avon Products, 350,000 square feet; Automatic Electric, 1,520,000 square feet; Caterpillar Tractor, 1,250,000 square feet; Ekco-Alcoa Container, 190,000 square feet; Electromotive Division of General

Motors, 805,000 square feet; the Ford Motor Company, 1,500,000 square feet; Hotpoint Company, 800 acres for future development, Sunbeam Corporation, a series of large expansions; and Western Electric Company, a series of expansions including 250,000 square feet additional and a purchase of 140 acres; the Wilson Sporting Goods Company, 350,000 square feet.

A host of other names of nationally known manufacturers can be added to this list as the Chicago area has had an average of 27½ announcements of new plants and plant expansions per month for the entire period since 1951.

Surveys of vacant and potentially vacant properties indicate that along the Calumet Sag Channel and the Little [fol. 4382] Calumet River there will be available approximately 4,400 acres of land for industrial development. In the Lake Calumet and Calumet River areas there will be available approximately 4,700 acres, and in Lake Calumet new land to be filled in will amount to approximately 1,200 acres. The land along the Calumet River and in Lake Calumet will be accessible to deep-draft navigation since it is proposed that the Calumet River and Lake Calumet will be dredged to a depth of 27 feet, which is the depth of the St. Lawrence Seaway and the improvement in the Great Lakes connecting channels. The land along the Calumet Sag Channel and the Little Calumet River will be accessible to barges but not deep-draft vessels. When phase II of the Calumet Sag Navigation Project is completed there will be available in Illinois and Indiana along the Grand Calumet River approximately 5,000 acres of land, making a grand total of 15,300 acres.

The Industrial and Statistical Divisions of our association have estimated that within a 15-year period this land will be occupied by industrial plants costing up to three billion dollars for land and buildings only. Another seven billion dollars must be added for machinery, equipment and materials. This new industrial expansion will require thousands of factory workers, and the housing and allied

industry construction necessary to take care of these additional workers will result in a further expansion of the area.

• • • • • • •

[fol. 4385] Page 9 shows a list of the fourteen largest commodity groups produced in the Chicago area, and shows that all industry in Chicago produces 6.8 per cent of the national total based on the dollar value added by manufacture. Because of the volume of production, the diversification of industry and the improved transportation facilities, including the opening of the St. Lawrence Seaway, we feel certain that Chicago's share of the nation's export and import traffic will increase. To take care of this increased traffic, we will need within the next decade all of the port facilities now being planned for the convenience of industries located within the port district, within the Chicago metropolitan area and for all shippers and receivers of export and import traffic through the Port of Chicago. We feel that additional rail lines should be permitted to serve the Chicago Regional Port District.

• • • • • • •

[fol. 4389] By Mr. O'Brien:

Q. I believe you covered it, but in your trip to Europe in which you were selling the Port of Chicago to the European shippers, did you presume that the Port of Chicago would have adequate rail service serving the port?

A. Yes, sir.

Mr. O'Brien: That is all. Thank you.

Exam. Albus: Any further direct?

(No response.)

Exam. Albus: Cross examine, please.

Mr. Dwinell: I didn't get the import of the last question.

Cross examination.

By Mr. Dwinell:

Q. That when you went you presumed that? You presumed what?

Mr. O'Brien: That there would be adequate rail transportation serving the Port of Chicago.

By Mr. Dwinell:

Q. Did you tell the people that in Europe?

A. That there would be adequate—

Q. Rail transportation for the Port of Chicago.

A. I don't know that I made a specific point about it. I just presumed that there would be.

Q. Then what does that have to do with the trip to Europe? I would like to ask the relevancy of the question.

Exam. Albus: Just another selling point.

Mr. Dwinell: I know, but if he presumed but didn't talk, [fol. 4390] what is the relevancy of the question, Mr. O'Brien?

Mr. O'Brien: It is in the record. I think the examiner ruled on it.

Mr. Dwinell: Just for my personal use, I would like to know what the relevancy is.

Mr. Wright: Of what relevancy is that, your personal use?

Exam. Albus: Let us continue with the cross examination, please.

By Mr. Dwinell:

Q. Taking your statement, and on page 3 you make the statement that the Chicago metropolitan area has been designated as such by the United States Department of Census and comprises an area including five counties in Illinois and one county in Indiana.

How many ports or harbors are there in that area?

A. Well, there would be Waukegan, I guess, the lake front harbor here at the Chicago River, and Lake Calumet, and I think they do some unloading on the Calumet River.

Q. And on the Chicago River, inside the—

A. Inside the outer bridge there is some unloading there, yes.

Q. And in the county in Indiana?

A. I think it is mainly iron ore and petroleum down there.

Q. Well, there are plans, are there not, for other harbors there?

A. I imagine there are. I don't know of any specifically.

[fol. 4391] Q. I assume that the purpose of the Chicago Chamber of Commerce is to look after, as far as it can, the welfare and well-being of all industries and all people inside the Chicago metropolitan area.

A. That is correct, sir.

Q. And that you want each of the industries and each of the people to have equal advantages.

A. I think that is correct, sir.

Q. In the fourth page you say, "It is the position of our association that the best interests of Chicago and the Chicago Port District would be served if more than one carrier were given access to port facilities and serve the Chicago Regional Port District.

"Will access to the port by additional carriers benefit shippers and receivers located outside the Chicago metropolitan area?

"Yes. In my opinion it will benefit shippers in that large section of the midwest that uses Chicago for export-import traffic and on other traffic interchanged between different types of carriers at Port District facilities."

Now, specifically and by number, one, two, three, will you tell me the benefits—the reasons why the best interests of Chicago would be served if more than one carrier were given access and the things that would benefit shippers in the midwest? What is the first?

[fol. 4392] A. Well, I think the first one is the insurance of competition and the better service. I think I can make maybe a direct comparison between the Port of Lake Calumet and maybe the City of Chicago. We have about 19 trunk lines serving the entire Chicago metropolitan area. The Chicago metropolitan area has grown and flourished because we have had all the service and had all this competition. I think the port at Lake Calumet will flourish and grow if we have as much service and competition as possible.

Q. All right, that is one.

A. What was the other question, sir.

Q. What are the other reasons?

Exam. Albus: What are the other benefits?

By Mr. Dwinell:

Q. I want them all, if there are any more.

A. I just think the improved service is the thing we are discussing here. That is our major concern.

Q. All right, improved service, through competition, is that right?

A. There may be some saving for certain companies located within the Chicago switching district, I understand. I think they will have a dollar saving—

Q. Switching charges.

A. Yes, sir. I think that will be presented in other testimony, but over-all I think the major thing is insurance of the most of the best types of transportation at the lowest [fol. 4393] cost and a fair return to the carriers involved. That is what our association has always stood for and sought.

Q. Then it really comes down to two things, improved service through competition and switching charges benefits to certain shippers.

A. I think that is correct, sir.

Q. Those are the reasons.

Now, I would like to ask you some questions about competition. What do you mean by competition between carriers if the Pennsylvania, the New York Central, the Belt,

and the Indiana Harbor Belt serve the port in addition to the Rock Island? How will competition be increased?

A. Well, I just say in proportion to the number of carriers involved.

Q. All right. I want you now to talk about their service and how competition will increase the value and the quality of their service.

A. Well, this becomes maybe an economic question. I think the whole free enterprise system of America has grown and flourished on the basis of competition, and I just think if you have two carriers instead of one or three carriers instead of two serving an area, you are assured of getting better service than if you have just one. It just happens in all kinds of business.

Q. In other words, it is just a general theory held by you.

[fol. 4394] A. Well, not only held by me, but I think it is shared by almost everybody in this room.

Q. All right. Exactly what, Mr. Coulter, is the plan of operation proposed by the applicants?

A. I am not familiar with the details of the proposed plan.

Q. And you do not know, therefore, what the exact method will be of how they will serve the port, and concretely, you do not know whether it will improve competition?

A. Whether it will be improved by competition?

Q. Whether it will improve—whether service will be improved by competition under what they propose to do.

A. No, sir. I can only lean on the experience of the total economic growth and development of the United States that things flourish better under competition.

Q. All right. What will be the competition between railroads if these other roads get in?

A. I don't know what the competition will be specifically between these roads, but as a shipper I would feel a greater assurance if I knew that I could call on more than one railroad to serve my business, my shipment.

Q. In other words, it is your opinion that the Illinois Central will bring cars in and serve industries, the Pennsylvania will bring them in and serve industries, the Rock Island will bring them in and serve industries, so that you will have the competition not only of the road haul, but [fol. 4395] the actual placing of cars at the site plants by each of these railroads, all of whom will be put on their toes because of the competitive situation.

A. Generally speaking, I think that is true. I am not familiar with all the switching details involved in here. I understand the Port District is going to have its own yard to which the railroads will deliver cars and make them available, and the switching within the Port District will be handled by some arrangement beyond the railroads, I presume, the port management itself.

Q. Then the conclusion—and I am assuming that your information is the information of the chamber—your information is that you do not know exactly what the elements of competition will be in the final analysis under the plan proposed.

A. No, I wouldn't say that, sir. I think availability of cars, service throughout the entire area of export and import operations will be affected. I think railroads in the west that have shipments going directly into the Port of Chicago will give this better attention and better service all the way along the route than they would have otherwise. I think there is a tremendous amount of interest, not only at the port itself, but I think by these entire roads.

Q. In other words, it is your opinion that if a railroad has shipments coming into Chicago destined to industries [fol. 4396] on its own rails, that it will give better service to those industries and to that shipment all the way than it will give to a shipment which is going to an industry situated on another railroad, is that your view?

A. No, I don't say that is my view.

Q. What I am trying to get from you is the concrete thing, concrete method, the concrete activating force, which is going to increase service through competition, improve

service through competition, if the Illinois Central, the Pennsylvania, the Indiana Harbor Belt, the Belt Railway Company of Chicago, and the New York Central are in there. Exactly what is it?

Mr. Schwietert: Mr. Examiner, it seems to me he has already explained two or three times, the direct service from outside the metropolitan area directly into the port and the competition created by that kind of service is an improvement which he would like to see happen in this area.

Exam. Albus: That is correct.

Mr. Schwietert: He said that two or three times.

Mr. Dwinell: He has always said that service inbound by a railroad will not be bettered so far as he knows to an industry on that railroad than on another.

Exam. Albus: Do you have an answer to the question pending, Mr. Coulter?

The Witness: I think I do. Each of these railroads com- [fol. 4397] petes in its own way with its own methods, and I am no expert on railroad management or operation, but railroads do compete for business. I know this because I have bought railroad services and I know where I had competition I had better rates and I had better service as a shipper, speaking as an individual here, and I don't know all the ways that this service will be improved, but I think the railroads that are petitioning to get in there will tell you how they can improve the service and that is their business, not mine. We in the association just know where most of the best types of services are available that we get better service, and that is the thing I am seeking here as a benefit for this community.

By Mr. Dwinell:

Q. Now, Chicago was built on railroad service.

A. Yes, sir.

Q. One railroad served one industry, another another, another another, another another, and they haven't all served all industries.

A. That is right.

Q. But Chicago has grown.

Continuing, you say that the total export and import traffic increased from 87,000 tons in 1950 to 237,000 tons in 1956.

Exam. Albus: What page is that, please?

Mr. Dwinell: The bottom of page 5.

[fol. 4398] By Mr. Dwinell:

Q. How much of that moved in by rail, by truck, and by barge?

A. I do not know.

Q. On page 8 you state at the bottom of the first full paragraph, that "Within five years"—and I will interpose there, the overseas traffic—"moving through the Port of Chicago is estimated at 1½ million tons or six times its present volume." I will ask you first who made that estimate?

A. That estimate was made by our association as a result of our world trade department and our business research and statistics department working on studies.

Q. Through what outlets was the estimate made that the million and one-half tons would move? I mean by that, Lake Calumet, Calumet River, Chicago, the port, at the mouth of the Chicago River, elsewhere in the whole area.

A. We have no exact information on that, but we are presently conducting a survey to try to get that specific information.

Q. That is all right. So that this is not to be an indication take a million and one-half tons will move through Lake Calumet.

A. That is right, sir.

Q. What of the million and one-half do you anticipate will move into Chicago by truck, rail, and water?

A. I do not have that information available.

Q. Of the rail part, will it be a major part or minor part? Will it be an expanding part or a contracting part?

[fol. 4399] A. I do not have the specific information on that, sir.

Exam. Albus: Very well. The witness doesn't know.

* * * * * * *

[fol. 4402] Q. As I understand, your position is that all of the industries which are located or will be located will have better service if they can have more than one railroad service.

A. In that Port District, that is right, sir.

Q. In the Port District. Now, there are more public warehouses in the City of Chicago than those that are going to be located there, aren't there?

A. Yes, sir.

[fol. 4403] Q. There are more elevators located in Chicago than will be located there.

A. I am not competent to answer that one.

Q. There are a lot of elevators now, aren't there?

A. Oh, yes.

Q. Isn't the Calumet River lined with them?

A. It has a few left.

Q. Well, the economist who was here yesterday for the Board of Trade said it was lined with them. You say a few, he said lined, so we won't quarrel with that.

There are industries in the City of Chicago which may compete with future industries, processing companies, and so forth, which may be located at Lake Calumet, are there not?

A. Yes, sir.

Q. As a matter of fact, there are 4,000 industries, Mr. Coulter, located in the City of Chicago on one railroad only. I would like to ask you this question: Do you want the industries, the elevators, and the warehouses which are located or to be located in the Lake Calumet area to have an advantage over all of their competing industries in the City of Chicago which are served by one railroad only, they do have that advantage over the 4,000 industries located only on one railroad unless and until all railroads serve all industry.

Mr. Wright: Mr. Examiner, I object to that question. I think it is unfair—

[fol. 4404] Mr. Dwinell: He isn't your witness.

Mr. Wright: Just a minute.

Exam. Albus: Just a minute. Let us have the objection.

Mr. Wright: I have a right to object. I think it is an unfair question because Mr. Dwinell is comparing an industry with a location or site where you are going to have a lot of industries and a lot of development, a public development.

The Witness: This is the point I wanted to make.

Exam. Albus: Wait a minute now. Have you finished your objection?

Mr. Wright: I have finished.

Exam. Albus: The objection is overruled. What is the answer?

The Witness: The answer is that I don't think you are comparing two like things. You are comparing a completely private operation with a public operation, and the Port of Chicago and Lake Calumet is a public operation, and therefore I think it is in a different position. You have the multiplication of interests there that you don't have in a unilateral situation between an industry and a railroad, and it would be impractical, furthermore, for every individual industry to be served by all railroads. Here is an opportunity for a grouping of industries, very big ones and very important ones, in a public facility to be served by a grouping of railroads, and I think that is the point of differentiation here.

[fol. 4405] I think Mr. Wayne Johnston himself said if he built a pier out here on the shore of Lake Michigan, and he paid for it, he would expect to have an exclusive on it, and I think he is entitled to it, but if it is a public pier built by public money, I think our position probably in relation to that facility would be the same as we have here now, that we would like to see it served by as many railroads as practically possible or certainly more than one railroad.

By Mr. Dwinell:

Q. You understand when Mr. Johnston made that statement he was trying to get in here, you understand that.

A. Yes, sir.

Q. Now, they are going to build some warehouses. For much of the operation of those warehouses they will be simply public warehouses, will they not?

A. I imagine that is true, sir; yes, sir.

Q. Particularly in the wintertime. Those elevators are going to serve as public elevators for all purposes, land as well as water. Industries will serve there, in competition with other industries. They may be located there, but they will be in general competition.

Let me ask you this question: do you think that when the state as the state engages in a development, erects facilities or leases land to private industry which builds, the mere fact that the public body is the promoter should [fol. 4406] give to all industries which may go there an advantage which they would not have if they located on properties developed wholly and completely through private initiative and enterprise?

Mr. O'Brien: Mr. Examiner, he has answered that question a couple of times. It has no relevancy whatsoever here.

Exam. Albus: The objection is overruled. Do you want to answer that again?

The Witness: Let me see now. Well, I would answer it in this way, I think, that as he says that the government shouldn't—or doesn't have any opinion on this but raises a question that the government might create a favorable climate for an enterprise to operate in to the disadvantage of someone who is completely private, I would say to him that I don't think that government-financed operation should either promote monopoly and give an exclusive to any single private enterprise. I think the very fact that it is a public operation should open it to as much competition as possible.

By Mr. Dwinell:

Q. Just this one other thing: You want service; that is the reason that you want this to have more than one railroad.

A. We want to be assured of the most of the best service, yes, sir.

Q. That is right. And it is your opinion that the Interstate Commerce Commission should grant this application on the basis of service, differentiating between a public [fol. 4407] and a wholly private institution.

A. I think that is the only basis on which this hearing is being held.

Q. That is right. That is the only basis.

Mr. Dwinell: That is all.

* * * * * * *

[fol. 4413] GEORGE H. WEISS was sworn and testified as follows:

Direct examination.

By Mr. Burchmore:

Q. What is your name, your position, and what has been your experience in matters of export and import commerce?

A. My name is George H. Weiss, and I am chairman of three steamship conferences that comprise the group [fol. 4414] known as the Great Lakes Overseas Freight Conferences.

I have been a writer on international trade and on all aspects of international transportation for slightly over 45 years. For many years I was Shipping and International Trade Editor of the New York Journal of Commerce and from 1930 to 1945 served in a similar capacity with the Chicago Journal of Commerce. For eight years beginning 1945 I was western trade promotion manager for the Port of New York Authority, in which capacity I solicited cargo for Port of New York sailings and engaged in surveys and

research studies dealing with the inland freight rate and other disadvantages of that port. I took over my duties with the Great Lakes Overseas Freight Conferences in 1954. I have written extensively on the economics of international transportation and the constantly varying pattern of international trade. I am a registered practitioner since 1951.

Q. This group or organization for which you speak is a Chicago activity?

A. My headquarters are here in Chicago, but the affairs of the lines which I manage through the conferences deal with all of the ports of the Great Lakes.

Q. What are these conferences?

A. The three steamship conferences that I manage are:

United States Great Lakes Bordeaux Hamburg Range Eastbound Conference. Presently this conference consists [fol. 4415] of seven member lines whose vessels are regularly engaged in direct operations between Great Lakes ports and the various ports within the Bordeaux/Hamburg Range. The lines comprising this conference are Fjell Line, Oranje Line, French Line, Hamburg America-North German Lloyd-Ahrenkiel & Bene joint service, Hamburg Chicago Line, Swedish American Line, and Wallenius Line.

Great Lakes United Kingdom Eastbound Conference. There are three member lines in this conference whose vessels are regularly engaged in direct operations between the Great Lakes ports and the United Kingdom ports. The lines comprising this conference are Fjell Line, Oranje Line and Swedish Chicago Line.

Great Lakes Scandinavian and Baltic Eastbound Conference. There are four lines presently comprising the conference whose vessels regularly operate in direct trade between Great Lakes ports and the Scandinavian-Baltic ports. These lines are the Fjell Line, Swedish American Line, Swedish Chicago Line and the Finlake Line.

These steamship conferences operate under authorization given by the Federal Maritime Board—or previous agencies—as required by section 15 of the Shipping Act of 1916,

as amended. The section 15 authorization confers exemption from provisions of the antitrust statutes enabling these steamship lines to act in concert in the development [fol. 4416] of freight rates and thereby afford rate stability to export freight shippers and the consignees abroad.

Q. Have you any connection whatever with the marine operators that have intervened in this case, the North Pier Terminals, Chicago Calumet Harbors, and so forth?

A. I have no direct association with them. I have an association with them to the extent that members lines of the conferences are terminal organizations.

Q. For whom have you been authorized to speak here?

A. I have been specifically authorized by the member lines of the three conferences individually and collectively to serve as their spokesman in connection with Finance Docket Number 19742 and with reference to application of various carriers for authority from the Interstate Commerce Commission for construction and operation by them of connections with the new steamship docking facilities built on Lake Calumet by the Chicago Regional District Port Board and leased by that board to terminal organizations which in turn provide vessel and cargo accommodation facilities to a majority of the steamship lines comprising these three steamship conferences.

Q. What is their position?

A. Before detailing the position of the member lines of the three conferences with reference to these Lake Calumet Harbor rail applications it is desired that I place on record their expression of appreciation for the active interest and [fol. 4417] constructive policy of the Chicago, Rock Island and Pacific Railroad in the development of the Lake Calumet port. These lines have a high regard to the cooperation of the Rock Island.

However, we are here dealing with traffic interchange arrangements that inescapably call for additional direct railroad service into, and from, Lake Calumet port.

Also our lines must have the opportunity to compete in the territory south, southeast and east of Lake Calumet

port for export and import cargo and further the opportunity to serve additional regions west of Chicago for that cargo.

Based on their experience in many American ports, the member lines definitely are of the opinion that Lake Calumet port requires additional direct railroad connections needed to provide both increased cargo interchange facilities as well as access to a greater volume of inbound and outbound cargo that will justify the operation of larger vessels.

Up to the present, by reason of canal and lock limitations in the upper St. Lawrence, our lines are restricted to vessels not exceeding 258 feet in length over-all. These vessels, although capable of deeper loading, cannot be loaded deeper than 14 feet for their passage through the present St. Lawrence locks eastbound and westbound. These little ships have a maximum capacity of 180,000 cubic feet and when loaded with what would be regarded as a well assembled cargo can receive up to 1600 weight tons down to a draft of 14 feet. On outbound voyages these ships on [fol. 4418] arrival at Montreal can load 6 to 8 feet additional draft, giving them a full cargo of 2600 to 2800 tons.

Q. What will be the change when the seaway opens?

A. When the St. Lawrence Seaway with locks 800 feet long is opened in April 1959 and a draft of 27 feet is made available all the way from Montreal into the principal Great Lakes ports, there will be an important change in the size and capacity of the vessels engaged in Great Lakes overseas cargo transportation.

Whereas presently the ships cannot exceed 258 feet, the expectations are that beginning April 1959 the carriers using the enlarged St. Lawrence Seaway will operate vessels about 400 to 450 feet in length. Against the present maximum cargo space for dry cargo totaling 350,000 cubic feet. In addition they will have deep tanks ranging about 15,000 cubic feet and space for 30,000 to 35,000 cubic feet of refrigerated cargo.

Also when the seaway is opened in 1959 there will be more steamship lines operating in the Great Lakes over-

seas trade. All of this most definitely indicates need for access to a greater number of importers and a greater number of exporters if these more numerous and larger ships are to obtain cargo in sufficient volume to make their voyages compensatory.

I have prepared for submission several statistical exhibits.

[fol. 4419] Mr. Burchmore: We ask that the two pages, page 1 of sailings from Port of Chicago, and page 2, from ports not west of Sarnia or Detroit and not shown above, be marked for identification.

Exam. Albus: As one exhibit?

Mr. Burchmore: Yes.

Exam. Albus: H-81 for identification.

(Exhibit No. H-81, Witness Weiss, was marked for identification.)

By Mr. Burchmore:

Q. You prepared these exhibits?

A. I did.

Q. Are they true and correct?

A. I would like to answer that fully. There has been a deplorable lack of comprehensive and statistical information relative to this development of Great Lakes overseas transportation. I have endeavored, mostly vainly, over the last two years to close that gap. There is an urgent need for a complete historical pattern. That is not presently available. The information that is supplied in this Exhibit H-81 is as reliable and as comprehensive as presently we are able to make it. But its accuracy to 100 per cent is not guaranteed at this time.

Q. Explain the first statement.

A. The first page of the exhibit details a full list of all of the lines, whether members of conferences or not mem- [fol. 4420] bers, that operate into and out of the Port of Chicago. The presentation shows the number of sailings they had scheduled for the current—1957—navigation sea-

son compared with the actual number of sailings they provided in the 1956 navigation season. It shows an increase for 1957 of almost 20 per cent over 1956 in the total number of sailings.

Another statistical presentation details Port of Chicago export and import cargo volume for the years 1952 through to and including 1956. You will note an unusual bulge in the imports for 1953. This was occasioned entirely by the steel shortage in the United States and unusual steel importations from Europe to supply the demand.

The import picture as shown in this statement reveals an increase from 41,964 net tons in 1952 up to 115,791 tons in 1956.

Exports from the Port of Chicago have progressively increased year by year. In 1952 the Port of Chicago exports totaled 51,369 net tons while for the 1956 navigation season the export total was 121,415 net tons.

As a matter of fact the figures for the 1956 navigation season could have been substantially greater had there been a further supply of small and suitable vessels available for operation in the Great Lakes overseas trade.

Q. What for the future?

A. When the seaway is opened in April 1959 it will no [fol. 4421] longer be a question of vessel supply. The world merchant marine presently has slightly over 6,000 vessels that can navigate the enlarged St. Lawrence Seaway. These vessels total slightly more than 25 million deadweight tons.

If only 5 per cent of these ships—let's say approximately 300 vessels—came into the Great Lakes, making two to three trips a year, we could easily have 600 to a maximum of 900 vessels coming into the Port of Chicago each season.

To provide efficient, economical interchange of cargo between the land carriers and the water carriers for such a volume of shipping will necessitate a substantially broadened railroad service into and out of Lake Calumet port.

Q. Mr. Huggett and others have stated the matter from the standpoint of terminal operators. You work with the terminal operators.

A. Indeed.

Q. Now from the standpoint of the ship owners or operators.

A. From the ship owners' and ship operators' point of view there are good ports and there are bad ports throughout the world. Good ports are ports that give vessels best dispatch. The larger general cargo-carrying ships that will be coming into Lake Calumet port will represent a capital investment ranging from $2,750,000 up to $5,000,000.

Q. That is per vessel.

A. Per vessel.

[fol. 4422] The loss of a single day in the turnaround of such a vessel is an important item of cost. A continued bad turnaround experience can cause a ship operator to undertake to divert cargo to some other port where a better turnaround experience is assured. Also such a bad experience can be made up by higher ocean freight rates but such a practice could readily put a port out of competition.

As I vision the cargo market that our Great Lakes overseas lines must serve through the Port of Chicago in order to make operation of the larger vessels into and out of the Port of Chicago compensatory, I place the westerly limits at Salt Lake City, the southwesterly limits deep into Oklahoma, the southerly limits at Memphis and the southeastern limits well into Tennessee.

These limits deal only in connection with the Port of Chicago. Our lines already have active cargo operations through Milwaukee, Green Bay, Muskegon, Detroit, Toledo, Cleveland, Buffalo, and Oswego. All of these ports have cargo potential territories considerably greater than the area they presently serve with import freight, and from which they presently obtain export freight.

These rough particulars should afford a reasonable understanding as to why our member lines regard additional railroad service into Lake Calumet as being needed.

Q. You have mentioned these other ports. How does Chicago rank?

[fol. 4423] A. Chicago has been and is the leading port of these ports. The Port of Chicago has been, and will continue to be, the major Great Lakes general cargo port insofar as export and import shipments are concerned. Also, beginning April 1959, the Port of Chicago will become a dominant export gateway for grain moving both direct to ports abroad and in some instances to Montreal for forwarding abroad.

The character of railroad service required by a large general cargo port and a port which also extensively ships grain for export differs broadly from a port mainly exporting or importing low grade raw materials for few manufactured products.

In international shipping operations the traditional pattern is for vessels to load their cargoes at several ports and to discharge their cargoes at several ports. Multiple port loading and multiple port discharging involves ship stowage problems that can only be efficiently accommodated by fully ample railroad services. The continuity of ship loading and unloading is vitally requisite to maintenance of minimum turnaround time in port and adherence to sailing schedule necessitates highly fluid railroad service for the delivery of export cars as required for the loading pattern and the placement and movement away from the port of import cars.

The great Port of New York would be completely helpless [fol. 4424] notwithstanding that it is directly served by seven large railroad systems if that port did not also have its extensive lighterage arrangements for the handling of export and import freight to and from shipside. Under the New York harbor lighterage system each of the seven railroads coming into that port directly serves every one of the commercial steamship piers in the port even where such commercial piers are located right within railroad terminals. Without this flexibility of railroad service the Port of New York would today be a relatively minor international commerce gateway. The lighterage system enables each railroad to deliver to shipside its own line haul export car-

loads and to directly receive at shipside the line haul import carloads intended for its handling.

Q. If a vessel at New York is tied up at a dock adjacent to a Pennsylvania Railroad track and only adjacent to a Pennsylvania Railroad track, is it confined to direct loading from cars on the Pennsylvania?

A. Indeed not. By means of the lighterage system the Baltimore & Ohio, the Pennsylvania Railroad, the New York Central, the Erie, the Lackawanna, and the Lehigh can serve that vessel.

Q. A vessel at any dock in New York is loaded by lighterage from all railroads by direct deliveries.

A. The lighterage system is employed, apart from—a [fol. 4425] substantial percentage of cargo moving to and from shipside in New York by motor carrier. Apart from that, fully 90 per cent of the rail-serviced cargo is taken from shipside and delivered to shipside by lighterage.

Q. And the lighters have the cars of the railroad that brought the freight to New York?

A. Not exactly that way. The lighterage system embraces both car floats and barges. The cars intact are moved on car floats. The ladings of the cars are accommodated in barges.

Q. That is both methods.

A. Both methods are employed.

Q. How does the need here compare with the need there?

A. The need for multiple railroad services into Lake Calumet port is exactly the same as New York harbor's imperative need for its lighterage system.

Q. I do not think you commented directly on the table on page 2 of your exhibit, the record of sailings through the Welland Canal. That is a part of your statistics of the movement, is it?

A. It is.

Q. Have you been in and out of this hearing so that you know what others have testified?

A. I have been here and also have read at home most of the statements.

Q. Having in mind the testimony of the witness for the [fol. 4426] Illinois Central and Witness Huggett, other witnesses, what have you to say as to the general showing, the adequacy of the general showing, where you may differ or what is the state of this record as you see it?

Mr. Dwinell: Did you hear Mr. Huggett's testimony?
The Witness: I beg your pardon?
Mr. Dwinell: Did you hear Mr. Huggett's—
The Witness: I was not here.
Mr. Burchmore: He read it.
The Witness: I have read it.

By Mr. Burchmore:

Q. I will ask this. I am not trying to get anything into the record only this: Does it appear to you that the Commission has a pretty full story of the whole thing?

Mr. Dwinell: Just a second. I don't see how the Commission could have a full story of the whole thing from the testimony of one witness when the Rock Island hasn't even been heard.

Mr. Burchmore: That is correct. You haven't.

By Mr. Burchmore:

Q. You haven't heard the objections, if any, to fully serving the public. Have you tried to avoid going into matters that are already rather fully covered but which you could go into?

A. Well, there are many more aspects of the situation that could be discussed. I don't know whether they would unduly burden the record.

[fol. 4427] Q. Did you read Mr. Williford's testimony regarding export practices of the financing of the shipments and so forth?

A. I did.

Q. Was his story correct and full?

A. Completely so.

Q. You could cover the same matters from your own experience?

A. Yes, sir.

Q. But you have avoided duplicating that.

A. Right.

Q. Are you here appearing simply as a spokesman for the conferences you represent but at the request of the terminal operators when I called you?

A. I am appearing here as a spokesman of the conference lines who are tenants of the terminal operators and who have arranged for their own position in this subject as well as the efficiency of their terminal operators in providing them with needed service in the handling of their vessels.

Q. Do the lines in the conferences for which you speak and the terminal operators and the railroads have one thing in common, namely, that all of them make their money by the services they afford the shippers in the commerce that the shippers supply?

A. This is a highly competitive business in a highly competitive territory. In other words, these Great Lakes ships compete not only with steamship lines operating out of [fol. 4428] the north Atlantic and the south Atlantic and the Gulf ports, but they also compete with the railroads operating from the north Atlantic and the south Atlantic ports to the central territory, the railroads operating from the Gulf to the central territory, and in a lesser respect, the railroads operating from the Pacific—between the central territory and the Pacific Coast in both directions.

Q. Besides competing with railroads do you depend upon railroads in a sense to bring goods to your wharves where you can load them?

A. Of course we do.

Q. There is a commerce here that has to move and in which the railroads and the motor carriers and the ter-

minal operators and the ships all furnish their respective services.

A. Yes, sir. There are shippers who, if they cannot obtain a constructive rate from an origin point to the Port of Chicago by rail, will elect not to use steamship service into or out of the Port of Chicago. I can give you a recent example of that.

Until about six weeks ago what little tobacco, unmanufactured tobacco, had moved to the Port of Chicago for export had moved by exempt truck transportation. What with the adjustment of the railroad rate and the providing of seven days' railroad free time, the shippers have elected now to use railroad service and are doing so, and in the [fol. 4429] last three weeks close to 500 tons of unmanufactured tobacco has come into the Port of Chicago by railroad whereas previously the same shipper had used highway transportation.

Q. Being brought into the port by the railroads, you will then enjoy the service out.

A. Yes, indeed.

* * * * * * *

[fol. 4450] EDWIN A. KUECKER was sworn and testified as follows:

Direct examination.

By Mr. Burchmore:

Q. Will you please give your name, your personal business connection, and what has been your experience in matters of this kind?

A. My name is Edwin A. Kuecker, and I am president of Kuecker Steamship Services, Inc., with its main office at 6 North Michigan Avenue, Chicago. Since 1925 I have been engaged in rail, inland waterways, ocean, and military transportation. Among numerous business club and asso- [fol. 4451] ciation activities, I have served as lecturer in world trade and shipping in the evening divisions of North-

western University School of Business since 1946. My company acts as the official agent in some 12 midwestern states for six steamship owners and operators from United States lakes, and tide-water ports to the principal world markets in some thirty countries.

I am here today to make a statement in behalf of the Chicago Overseas Shipping Association of which I am the current president. This Association is composed of resident representatives of steamship lines operating deep sea vessels which are regularly and directly engaged in transporting cargo and passengers between the port of Chicago and foreign ports.

Mr. Broker: Excuse me, sir. Are you reading from a prepared statement?

The Witness: Yes, sir.

Mr. Broker: I wonder if we could have copies.

Mr. Burchmore: He not only doesn't have one for you but he doesn't have one for me. He will be brief.

By Mr. Burchmore:

Q. Your own firm and the other members of the Overseas Shipping Association are agents for ships that operate in transporting freight to and from Chicago from and to overseas.

A. That is correct.

Q. You are only testifying, however, as a spokesman for your organization.

[fol. 4452] A. That is correct.

Q. What are the views and what is the position of your organization with respect to this matter?

A. The purpose of the association is to promote the mutual interests of its members in maintenance of lakes, seaway and ocean shipping; and to foster closer working relations and harmony with exporters, importers and other related world trade, transportation and harbor interests in and around the Port of Chicago. There are 16

steamship operators holding memberships in the association, which render service during the lakes season to ports in the United Kingdom, Scandinavia, northern and southern Europe, Mediterranean, and Caribbean areas.

In behalf of that group I am authorized to say that in our opinion service to the Port District by more than one carrier will be a distinct asset to the port, will aid in developing Chicago's port facilities and that a competitive system always provides for better service. It is admitted the current volume of traffic can be adequately handled by one delivering line in ordinary circumstances and imply no complaint of the general service now being furnished by the Rock Island, we feel that the future needs of the port make it advisable if not expedient that more than one line be permitted to serve the Port District in the future.

• • • • • • •

[fol. 4460] R. D. Erickson resumed his testimony as follows:

Cross examination.

• • • • • • •

[fol. 4463] By Mr. Dwinell:

Q. The term "nonpublic warehouse" means that they handle their own materials?

A. That is correct.

Q. I show you another one titled public elevators in Chicago under federal license, certificates accepted for delivery on Chicago Board of Trade contracts under Commodity Exchange Act, Section 5-A-7, and I will ask you if that is a list of the public elevators in Chicago?

A. That is correct, with the exception of the Badenoch to which I referred, and only a portion of it is public.

Q. That shows upon its face that that is in part only.

A. That is right.

Q. But the figure of 375,000 bushels is the public part of the elevator.

A. That is correct.

Q. This particular document which I have was issued on May 14, 1957. It carries the Gateway elevator, operated by the Illinois Grain Corporation, and the Rice Powell elevator operated by the Rice Grain Company, with a note "Under construction; will be completed in early June." [fol. 4464] A. That is right, and it was completed and in operation.

Exam. Albus: That list also may be copied into the record.

The Witness: I might also add that those lists are shown in the annual report of the Board of Trade, same description.

(The statement referred to is as follows:

"Public Elevators in Chicago

"Under Federal License—Certificates accepted for delivery on Chicago Board of Trade contracts under Commodity Exchange Act, Section 5 A (7).

Name of Warehouse	Operated by	Licensed Capacity Bushels
Badenoch (Part of)	J. J. Badenoch Company	375,000
* Belt Elevator	Vitality Mills, Inc.	650,000
Calumet Elevator	Norris Grain Company	2,800,000
The Cargill Elevator	Cargill, Inc.	20,000,000
Continental Elevator A	Continental Grain Company	3,800,000
Continental Elevator D	Continental Grain Company	1,200,000

Continental Elevator J	Continental Grain Company	1,100,000
Continental Standard Elevator	Continental Grain Company	350,000
* Erie Elevator	Interstate Elevator Corp.	500,000
# Gateway Elevator	Illinois Grain Corp.	6,500,000
Glidden A	Glidden & Company	6,800,000
Glidden B	Glidden & Company	2,265,000
@ Irondale Elevator	Illinois Grain Corp.	2,750,000

[fol. 4465]

NAME OF WAREHOUSE	OPERATED BY	
Kensington	Santa Fe Elevator Corp.	320,000
New York Central	Farmers Grain Dealers Association of Iowa (Co-op)	2,200,000
Norris Elevator & Tanks	Norris Grain Company	2,150,000
Rialto Elevator	General Mills, Inc. Star Grain Division	2,750,000
# Rice-Powell Elevator	Rice Grain Corp.	6,500,000
Santa Fe Elevator	Santa Fe Elevator Corp.	1,800,000
Spencer Kellogg (Part of)	Spencer Kellogg, Inc.	850,000
States Grain Elevator	States Grain Corp.	400,000

TOTAL RATED CAPACITY Under Federal License 66,060,000

* Under Federal License but not regular for delivery on Board of Trade Contracts.

\# Under construction. Will be completed in early June.

@ Irondale Elevator will be operated by Louis Dreyfus Corp. after early June, 1957.

TOTAL CURRENT GRAIN STOCKS IN FEDERAL LICENSE ELEVATORS

Date.....

.....BU.

STATISTICAL DEPARTMENT
CHICAGO BOARD OF TRADE

May 14, 1957

Form 62 McC")

[fol. 4466] By Mr. Dwinell:

Q. Just as the private elevator is operated with the operator's own grain, the public elevators listed there are open to the public.

A. That is correct.

Q. They take the grain of all who offer it.

A. That is correct, issue warehouse receipts.

* * * * * * *

[fol. 4491] October 9, 1957

• • • • • • •

ELDEN A. THARP was sworn and testified as follows:

• • • • • • •

Direct examination.

By Mr. Dwinell:

• • • • • • •

Q. What is your position with the Rock Island Railroad?

A. General Freight Traffic Manager.

Q. Have you a statement which you would like to make?

A. I have.

Q. Please make it.

Exam. Albus: Off the record.

[fol. 4492] (Discussion off the record.)

Exam. Albus: On the record.

Proceed Mr. Tharp, please.

The Witness: One of the reasons given by the applicants for the granting of their applications to serve Lake Calumet Port territory is that there will be certain movements of freight moving in railroad cars between the Lake Calumet territory and industries located elsewhere in the Chicago switching district.

The applicants then state that there are three levels of rates which are charged the shippers for intra switching district movements: a single line rate, a two line rate, and a three line rate—the two line rate being higher than the one line rate, and the three line rate being higher than the two line rate.

Mr. O'Brien: Mr. Examiner, I would like to object at this time to a resume being made of what the applicants testified to, or what their case was by any particular witness. I believe it is completely out of order to do that. I believe the record speaks for itself. If he wishes to give

affirmative testimony, I believe that is proper, but to sum up what our case has been, I do not believe is proper.

Mr. Bordes: He is just stating what one of the reasons is that is being given by the applicants. That isn't the summation of the case.

[fol. 4493] Mr. O'Brien: Whether it is one of the reasons or not, I object to it.

Mr. Osmond: We join in that objection.

Mr. Dwinell: It is his understanding of what it is.

Exam. Albus: The objection is overruled. You may continue. He is leading up to evidence.

The Witness: The applicants then state that if the Rock Island serves the Port exclusively, industries located on the Rock Island having movements by railroad car between their industries and the Lake Calumet area will pay the one line rate, but that if the movement is between the Lake Calumet area and industries located on other railroads in the City of Chicago, the charge applicable will be either the two line or the three line rate.

They say, however, that if the Pennsylvania, the New York Central, the Indiana Harbor Belt, The Belt and the Illinois Central serve the Port, the charge for all industries located on those lines will be reduced to a one line rate.

They further say that three line rates will be reduced to two line rates.

The applicants then say that certain shippers now paying the two line rate should get the benefit of the one line rate to and from Lake Calumet, and the other shippers now paying the three line rate should get the two line rate to and from Lake Calumet, and that on this account, public [fol. 4494] convenience and necessity requires that the Commission should authorize the entrance into the Lake Calumet area by these applicants.

With this statement or position, I disagree.

Mr. O'Brien: I am going to object to the next statement. It is argumentative and invades the province of the Commission. It has no place in direct testimony. All of this is a summation of what his interpretation is, and it is

objectionable. Certainly, in this next sentence his statement is argumentative and it invades the province of the Commission. I ask that it be stricken.

Mr. Dwinell: This is a statement leading up to a statement of our position in this case.

Mr. O'Brien: It is his interpretation of the public needs and it is objectionable.

Exam. Albus: This witness is entitled to his opinion just the same as the applicants were. The objection is overruled.

The Witness: If this were a valid reason for the issuance of a certificate of convenience and necessity, every railroad would have ground for a certificate to reach all industries in the Chicago switching district.

The system of switching charges set up to cover these movements, and which have been in existence for over twenty-five years, recognizes that certain shippers will for certain movements pay the three line rate, and that certain shippers will for service of the carriers pay the two line [fol. 4495] rate, depending upon the origin and destinations of the shipments and the number of railroads involved.

The position of the applicants is that for shippers moving cars to and from the Lake Calumet area alone, public convenience and necessity requires that they should pay the one line rate if they now pay the two line rate and should pay the two line rate if they now pay the three line rate, this to be accomplished by the entrance of the applicants to the Port.

We submit that, if the applicants are correct in their position that public convenience and necessity require that certain benefits should be given to certain shippers, they should look further for a total solution which would place all shippers moving goods from all points to all points within the Chicago switching district on a parity.

There are three solutions:

One solution would be that every railroad have direct access to every industry in the City of Chicago. This, of

course, would create chaos, and I do not advocate it and I am sure that no other railroad would advocate it.

Second, one carrier could be established which would, with its operations, cover the entire switching district eliminating all other switching operations within the district. This, of course, is impossible.

The third solution would be to equalize the situation by [fol. 4496] having one level of charges to the shippers for all movements within the Chicago switching district, regardless of the number of railroads involved.

I think I have made it clear that I do not agree with the validity of the contentions made by the applicants. I see no reason for the Commission to allow five or six railroads direct entry into the Port in order to reduce the level of the rates only for certain industries which ship to or from Lake Calumet, but if the position of the applicants is to be accepted as valid in principle, then I say that principle requires all shippers in the Chicago district should be placed on a parity as to all movements within the district, and the only feasible method of placing all shippers within the Chicago district on a parity is to have one level of rates.

The Rock Island is willing to enter into arrangements with the other railroads to bring about one level of rates for all intra switching district traffic regardless of the number of railroads involved.

Our reason for making this statement at this time is to have our position clearly in the record for the balance of the hearing.

* * * * * * *

[fol. 4500] Mr. Bordes:

"Before the Interstate Commerce Commission

Finance Docket No. 19448

Michigan Central Railroad Company, et al.,
Construction, etc.

Finance Docket No. 19538

Illinois Central Railroad Company, et al.,
Construction, etc.

Deposition of Nels Kunst—March 20, 1957

Direct examination.

By Mr. Guandolo:

Q. Will you kindly state your name?

A. My name is Nels Kunst.

Q. And where do you reside, Mr. Kunst?

A. 11407 Indiana Avenue, Chicago.

Q. What is your present status?

A. I am retired, ex-President of Pullman Railroad Company.

Q. Did you prepare a statement for presentation here at this time?

A. I have.

Q. Will you proceed to read that statement into the record?

A. "My name is Nels Kunst. I live at 11407 Indiana Avenue, Chicago, Illinois. I have been a resident of Chicago and the Lake Calumet area for more than 70 years.

I was President of the Pullman Railroad Company until my retirement December 31, 1949. I was connected with the Pullman Railroad for over 50 years, going back to the

year 1898. I started with Pullman Railroad as an office [fol. 4501] boy and then successively became Yard Clerk, Demurrage Clerk, Assistant Timekeeper, Car Record Clerk, Assistant Agent, Agent, Assistant Superintendent, Superintendent, Vice President and President, serving in the latter capacity for some 9 or 10 years. I was President of The Pullman Railroad Company at the time of its acquisition by the Rock Island Railroad in 1949.

The Pullman Palace Car Company Railroad, predecessor of The Pullman Railroad Company, was established as a separate unit of The Pullman Palace Car Company in 1880. The name of The Pullman Palace Car Company Railroad was changed to The Pullman Railroad Company in 1906.

Pullman, Incorporated was the parent company. The Pullman Company and The Pullman Standard Manufacturing Company were subsidiaries of Pullman Incorporated. The Pullman Railroad and Pullman Land Association were subsidiaries of Pullman Standard Car Manufacturing Company. In my testimony when mention is made of the term 'Pullman,' it shall have reference to the parent company, Pullman, Incorporated, and/or its subsidiaries other than The Pullman Palace Car Company and the Pullman Railroad, and where the term 'Pullman Railroad' is used it shall have reference to The Pullman Palace Car Company Railroad and/or the Pullman Railroad Company.

About 1880 The Pullman Palace Car Company Railroad [fol. 4502] acquired a right of way from 111th Street in a southerly direction to as far south as 130th Street and east from there to the Calumet River.

It also obtained a right of way as far north as 94th Street to connect with the Rock Island Railroad operating at that point.

Pullman Railroad and Rock Island Railroad had reciprocal track agreements. Pullman had trackage rights over the Rock Island from Pullman junction at 94th Street to South Chicago and from Pullman junction to 87th Street.

The Rock Island had trackage rights over Pullman from Pullman junction to 126th Street.

The Rock Island Railroad was active in the vicinity of Lake Calumet in these early years. The South Chicago and Irondale branch of the Rock Island was constructed in the late 1870's and came over from Blue Island, Illinois. These branch lines of the Rock Island served industries to the east of Lake Calumet and along the Calumet River.

Tracks were laid by The Pullman Palace Car Company Railroad between 94th Street and 126th Street immediately after the right of way was acquired in about 1880. In 1912 the track was extended to 129th Street. In 1915 Pullman Railroad extended this particular track that reached 129th Street laying it directly north of 130th Street east to the Calumet River. This track was laid between [fol. 4503] Lake Calumet and the Kensington and Eastern tracks.

I have a map of this territory that was printed in 1898. I will call it Exhibit K-1. It was taken from the files of the Pullman Railroad and is true and correct to the best of my knowledge and belief. This exhibit shows The Pullman Palace Car Company Railroad route and right of way in December, 1898, numbered from 1 to 5, and was drawn by Duane Doty who was Chief Engineer of The Pullman Palace Car Company. The route and right of way has been outlined in red under my direction.

The map also shows the channel constructed in about 1884 by The Pullman Palace Car Company from Lake Calumet inlet at approximately 129th Street to a point at 104th Street. This channel was 40 feet wide and 14 feet deep moving one full mile to the west and then north for three miles along the west coast of Lake Calumet. This channel was used by industry located on the west side of Lake Calumet.

I also have a map bearing date 1905 showing the Lake Calumet area. I will call this Exhibit K-2. It was taken from the files of the Pullman Railroad and is true and correct to the best of my knowledge and belief. In 1949,

there was superimposed under my direction, certain cross hatching which is explained on the right hand side of the Exhibit.

[fol. 4504] This particular exhibit shows all of the original land purchases of Pullman between 1877 and 1880 and also shows, up to the year 1949, the property sold, the property that was owned and held for expansion purposes, and property occupied by industries served by Pullman Railroad.

The property shown in the upper left hand corner of Exhibit K-2 located at 87th Street was sold by Pullman to the Chicago, Western Indiana Railroad in 1883.

A right of way was also sold by Pullman to the Chicago, Western Indiana Railroad in 1883 from 119th Street to as far south as 136th Street for extension to Riverdale, Illinois. The C. & E.I. operates over this branch of the Chicago, Western Indiana from Riverdale to the City of Chicago.

The property shown in the upper right hand corner of Exhibit K-2 located at 95th Street and Stony Island Avenue was sold in 1883 by Pullman to the Chicago, Western Indiana Railroad for a right of way to Hammond, Indiana. A true and correct copy of the deed of conveyance from Pullman to the Chicago, Western Indiana Railroad covering the conveyance of the foregoing parcels of land is herewith presented as Exhibit K-3.

Exhibit K-2 also shows the property sold by Pullman to the Illinois Central Railroad between 118th Street and 130th Street, west of the Pullman tracks and right of way, [fol. 4505] for its Wildwood yard in the year 1902. A true and correct copy of the deed to this property is herewith presented as Exhibit K-4.

Pullman sold to the Kensington & Eastern Railroad, a wholly owned subsidiary of the Illinois Central Railroad, the right of way paralleling the Michigan Central Railroad to the east from 115th to 130th Streets and from 130th Street easterly to the Calumet River. That was all Pullman property, as shown by Exhibit K-2, and was sold to the K. & E. in 1907. The Pullman Railroad tracks between

115th and 126th Streets were located on the right of way sold to the K. & E. Pullman's Railroad tracks were moved lakeward to a point 50 feet east of the K. & E. tracks. A true and correct copy of the deed to the property sold to the K. & E. is herewith presented as Exhibit K-5.

Exhibit K-2 also shows the right of way reserved for the Pullman Railroad to 130th Street and thence easterly to the Calumet River. The tracks and right of way of the Pullman Railroad were at all times adjacent to Lake Calumet and between the lake and the lines of all other railroads located to the West and south of Lake Calumet.

Since 1880 The Pullman Palace Car Company Railroad and its successor, The Pullman Railroad Company, have served all of the industries located between 95th Street on the north, 130th Street on the south, Lake Calumet on the east, and the Illinois Central Railroad on the west. Some of these early industries were the Union Foundry [fol. 4506] and Car Wheel Company at 104th near Langley Avenue; The Pullman Spike Mill at 108th and Lake Calumet; the Allen Paper Car Wheel Company at 108th and Cottage Grove Avenue; the Hastings Express Company at 115th and Cottage Grove Avenue; the Chicago Foundry Company at Cottage Grove and Kensington Avenue; the Pullman Paint Company at 115th Street near Langley; the Pullman Brick Company at 116th Street and Lake Calumet; the Illinois Terra Cotta Lumber Company at 119th Street and Lake Calumet and the Pullman Ice House at 119th Street and Lake Calumet. The Pullman Palace Car Company Railroad was the only railroad serving these industries.

While I was President, the Pullman Railroad served some 21 industries. Of these 21 there were two that were Pullman controlled industries. The others were independent industries having no connection with Pullman. The Sherwin-Williams Paint Company was the largest. Another large outside industry served by the Pullman Railroad was Electro-Motive. The Pullman Railroad maintained approximately 300 miles of track to serve its industries.

Prior to 1910 the Knickerbocker-Consumers Ice House at 126th Street and Lake Calumet was served by the Pullman Railroad and the Michigan Central Railroad. In 1910 an agreement was entered into between the Michigan Central and the K. & E. as a result of which the K. & E. agreed [fol. 4507] to serve the Knickerbocker-Consumers Ice House and the Swift Ice House at 129th Street for and on behalf of the Michigan Central. At that time Michigan Central was serving both ice houses. A true and correct copy of this agreement is herewith presented as Exhibit K-6. Service to and from the ice houses was actually performed by the Illinois Central Railroad. When the Pullman Railroad extended its track south to 129th Street and thence easterly to the Calumet River in 1915, the K. & E. and the Michigan Central pulled out and from that time on services to both ice houses was performed exclusively by the Pullman Railroad. With the exception of these two ice houses, service to all of the industries in this area was performed exclusively by Pullman Railroad since 1880. Pullman Railroad handled many hundreds of carloads of ice from Knickerbocker-Consumer's and Swift's ice houses after the K. & E. and Michigan Central pulled out. The ice houses went out of business about 1934 when Doty Avenue was constructed.

After Pullman Railroad extended its track down to 130th Street and thence east to the juncture of the Calumet River and Lake Calumet in 1915, it handled many hundreds of carloads of produce and other commodities to and from this lower end of the lake.

During World War II, Pullman constructed a shipyard on the property at the juncture of the Calumet River and [fol. 4508] Lake Calumet in 1915, it handled many hundreds of carloads of produce and other commodities to and from this lower end of the lake.

During World War II, Pullman constructed a shipyard on the property at the juncture of the Calumet River and Lake Calumet at 130th Street and Stony Island Avenue. Pullman operated the shipyards during World War II

for some 3 or 4 years. The Navy owned the buildings and Pullman owned the land. During the war, the properties were used for constructing both landing barges and patrol boats. The Pullman Railroad served this facility exclusively. After the war ended in 1945, the Navy used this area as a distributing station. Pullman Railroad continued to serve this facility exclusively. This property was sold to Calumet Harbor Terminals, Inc. in 1949. True and correct copies of the deeds of conveyance from Pullman to Calumet Harbor Terminals, Inc. are herewith presented as Exhibits K-7, K-8 and K-9.

About 1908, a Commission was created by the City of Chicago which was known as the City Harbor Commission. This Commission recommended that a harbor be created either by the City or by contract with riparian owners. The City elected to acquire land by agreement with the land owners.

In 1916, pursuant to appointment of the City Council, [fol. 4509] a report was submitted by the late Arend Van Vlisingen, an engineer employed by the City of Chicago, in which he set forth a comprehensive plan for dredging of the harbor and the filling of submerged lands, including settlement of boundaries by riparian owners, and construction of a railroad track and a highway parallel thereto entirely surrounding the lake, including the laying out of streets east and west on both sides of the lake at stated intervals.

The agreement between the City of Chicago and Pullman with respect to riparian rights was signed on July 23, 1917. A copy of this Agreement between the City of Chicago and Pullman is herewith submitted as Exhibit K-10. This exhibit is true and correct to the best of my knowledge and belief. Attached to Exhibit K-10 and marked 'Exhibit B' is the Agreement between the City of Chicago and Pullman designated the 'Railroad Agreement' signed March 1, 1918.

The Pullman Railroad agreed to connect its railroad tracks with the railroad tracks encircling the harbor at

several points when requested so to do by the City, since our line of railroad was adjacent to the harbor. In this manner, the Pullman Railroad would serve the harbor from the west. The Nickel Plate Railroad was in a position to serve the harbor from the east.

[fol. 4510] Pursuant to said 'Riparian Rights Agreement' Pullman waived its riparian rights to some four miles of lake frontage without the payment of any compensation. The riparian rights of Pullman extended along the entire west shore of Lake Calumet as far south as 189th Street and also paralleling 129th Street to the south end of the lake to what is known as the intake into Lake Calumet.

Exhibit K-10 also shows that Pullman dedicated ten streets leading to Lake Calumet Harbor, all without any expense to the City of Chicago. The streets alone covered between ten and fifteen acres of property approaching the harbor.

The streets so dedicated were 111th, 115th, Kensington Avenue, 121st, 125th, 127th, 130th, Woodlawn Avenue—both north and south of the lake—Stony Island Avenue, north and south of the lake—and also Doty Avenue between 129th and 130th Streets.

On June 29, 1920, Mr. Van Vlisingen submitted an amended plan for the development of Lake Calumet. The amended plan also provided that the Pullman Railroad would serve the harbor.

In 1921 the City Council adopted the Van Vlisingen Plan of 1920. A map of the Van Vlisingen Plan adopted by the City Council is herewith submitted as Exhibit K-11. This map is true and correct to the best of my knowledge and [fol. 4511] belief.

Pullman, in 1908, dedicated some 10 to 15 acres of land to the United States without expense to the government, to be used as a Turning Basin for navigation. This is what is now known as Turning Basin No. 5 at the inlet to Lake Calumet. A true and correct copy of the instrument of conveyance, dated September 26, 1908 is herewith presented as Exhibit K-12. This reduced Pullman's water frontage by 1000 to 1500 feet.

In 1935 Pullman conveyed additional property to the United States for the widening of the Calumet River immediately north of 130th Street, without expense to the government. This conveyance enabled the government to widen the river at that point. A true and correct copy of the instrument of conveyance, dated December 31, 1935, is herewith presented as Exhibit K-13. Pullman reserved some 50 to 75 acres of land paralleling 130th Street, between Doty Avenue and Stony Island Avenue, for use in connection with harbor development.

In 1942, the Pullman Railroad extended its track into the north end of the harbor territory at 107th Street at the request of the City of Chicago. One mile of track was laid to the west of Doty Avenue and two miles of track were laid on the north end of Lake Calumet. Pullman Railroad constructed a 75 foot overhead bridge across Doty [fol. 4512] Avenue at this point with a ramp on either side, the entire expense of which was borne by Pullman Railroad. This tract served the City property at the north end of the lake. The track across Doty Avenue at 107th Street is presently being used and has been used for many years by the City of Chicago for unloading City garbage by carloads into the north end of Lake Calumet.

The Van Vlisingen Plan provided for a north end connection by the Pullman Railroad to serve Lake Calumet. As located, the track could be used as the north end connection with Lake Calumet for the purpose of serving the harbor. Thus Pullman Railroad would serve the harbor from both the north and south end.

Pullman and the Pullman Railroad had extensive plans for developing and serving the Lake Calumet territory. The plans were laid out by Pullman engineers. Pullman had held in reserve since 1880 some 300 to 350 acres of vacant land for harbor development.

Large interchange yards would be constructed where all lines could interchange to Pullman Railroad. One such large interchange yard would be constructed between 95th Street and 103rd Street, east of the Pullman Railroad tracks. From that point Pullman Railroad would cross

Doty Avenue at 107th Street to connect with the harbor and from that point at 107th Street. Pullman Railroad [fol. 4513] could reach the present harbor facilities. A large classification and interchange yard would be constructed between 130th Street and 119th Street east of the Pullman Railroad tracks. The areas where the classification and interchange yard would be constructed are shown on Exhibit K-2. The same exhibit also shows where the proposed dock line would be located.

About 1935, Doty Avenue, a main arterial highway running north and south along the west side of Lake Calumet, was constructed and it extended from 95th Street on the north to 130th Street on the south.

Pullman gave the State of Illinois an easement over its property to complete the highway but retained rights in the street with the condition that Pullman Railroad would be permitted to cross Doty Avenue in perpetuity. There was no compensation paid to Pullman for this dedication. Pullman Railroad later moved its right of way at the request of the State of Illinois which necessitated taking up the old tracks and laying an entire new right of way east and west of Doty Avenue for approximately one mile.

A joint application was filed by the Illinois Central Railroad Company and its wholly owned subsidiary, the Kensington and Eastern Railroad Company, on March 20, 1947, with the Illinois Commerce Commission seeking permission to construct a line of track from a point on the line of [fol. 4514] the Kensington and Eastern in the vicinity of 127th Street, Chicago, Illinois, across the tracks of the Pullman Railroad and across Doty Avenue to Lake Calumet Harbor.

The Kensington and Eastern Railroad Company is a non-operating company. Its line of railroad is operated by the Chicago, South Shore and South Bend Railroad. The Pullman Railroad Company appeared in opposition to this application.

Specifically, the applicants sought a Certificate of Public Convenience and Necessity to construct the line of track

and to fix the point and manner of crossing the line of the Pullman Railroad and Doty Avenue.

In 1949 the Rock Island Railroad intervened and became a party to the proceeding before the Illinois Commerce Commission. From a ruling in favor of the applicants, Pullman Railroad and the Rock Island Railroad appealed to the Circuit Court of Cook County, Illinois, which court reversed the decision and order of the Illinois Commerce Commission by order entered July 26, 1951.

An appeal was taken by the applicants to the Supreme Court of Illinois, which court affirmed the decision of the Circuit Court of Cook County, Illinois, in an opinion filed January 22, 1953.

A rehearing was denied on March 24, 1953, in *Chicago Rock Island Pacific Railroad Company, et al.* v. *Illinois* [fol. 4515] *Commerce Commission, ex rel., Illinois Central Railroad Company, et al., Appellants,* 414 Ill. 134, 111 N. E. 2nd 136. A true and correct copy of this decision of the Illinois Supreme Court is herewith submitted as Exhibit K-14.

Mr. Guandolo: We tender the witness for cross-examination.

Mr. Bierma: I have no questions.

Mr. Guandolo: Mr. Olson?

Mr. Olson: I think I have no questions.

(Witness excused.)

Mr. Bordes: Let the record show that the exhibits numbered 1 to 14 which were introduced by the witness Kunst have been marked Exhibits K-1 to K-14, both inclusive, on the reverse side of each exhibit. This was done so as to clarify the numbering of exhibits at the hearing."

Mr. Bordes: Mr. Examiner, I move that these exhibits be marked and admitted into evidence.

Mr. O'Brien: May we have copies?

Mr. Bordes: They were distributed, Mr. O'Brien. You have copies. All the applicants in this case have received

both copies of the exhibits and the Commission has 14 full copies of the exhibits.

Mr. O'Brien: Are they included in the bound volume?

Mr. Bordes: Yes.

Mr. Chartrand: Do you plan to furnish interveners in [fol. 4516] this proceeding with copies?

Mr. Bordes: Well, Mr. Chartrand, we don't have any available copies of the exhibits. They were rather bulky and at the time of the hearing proper notice was given to all of the applicants and they all received copies.

Exam. Albus: Very well, you can make that arrangement with him. This is pertaining only to the deposition which was read into the record and has already been received by the Commission and it is in the docket in these cases.

Do you have another one to present.

Mr. Guandolo: At this time I would like to read the deposition of Mr. William E. Bolton into the record. Shall I proceed?

Exam. Albus: If you will.

Mr. Guandolo: "Finance Docket No. 19448

MICHIGAN CENTRAL RAILROAD COMPANY, et al.,
Construction, etc.

Finance Docket No. 19538

ILLINOIS CENTRAL RAILROAD COMPANY, et al.,
Construction, etc.

DEPOSITION OF WILLIAM E. BOLTON, TAKEN ON FEBRUARY 14, 1957

Direct examination.

By Mr. Guandolo:

Q. Will you state your full name?

A. William E. Bolton.

Q. Where do you reside, Mr. Bolton?

[fol. 4517] A. On Rolling Green Road, in Palm Beach County, R. D. 4, West Palm Beach, near Juno Beach, Florida.

Q. Have you prepared written testimony to be presented in this proceeding?

A. I have.

Q. Will you proceed to read your testimony into the record?

A. Yes, I will.

I was employed by the Chicago, Rock Island and Pacific Railroad Company from January, 1919 to December 31, 1953. During this tenure of employment, I was employed in the Operating Department in capacities of Secretary, Chief Clerk, Assistant to Vice President, Assistant to Chief Operating Officer, and on September 1, 1938, was appointed Industrial Commissioner and later promoted to Vice President in Charge of Industrial Development, Agricultural Development, and the Real Estate and Tax Department. On December 31, 1953, I retired due to physical disability.

The Duties of the Industrial Department while I was in charge, was to locate industries along the Chicago, Rock Island and Pacific Railroad Company lines to be served by it, thereby producing freight tonnage; leasing railroad lands; constructing industrial trackage to serve industries; acquiring and promoting new industrial districts; and carrying on general development both industrially and agriculturally.

The industrial areas served by the Chicago, Rock Island [fol. 4518] and Pacific Railroad Company lines in Chicago at that time were limited.

When I was in charge of the Industrial Department, particularly from 1940 to 1946, while many hundreds of industries located in the Chicago area, the Chicago, Rock Island and Pacific Railroad Company due to lack of industrial sites was unable to secure a fair share of these new industries on its line.

The Rock Island's main line was elevated from the LaSalle Street Station to 87th Street, a distance of 10.2 miles, therefore, in this area, due to the elevation and the fact that the territory was generally built up with residences, there was no opportunity for industrial development.

From 87th Street to 115th Street, where the line was at grade, the land adjacent to the right-of-way was settled with residences which precluded any industrial development. From 115th Street to 119th Street, the city limits, there was a small area for industrial development which heavy industry of the type that would produce noise or smoke avoided due to difficulty in securing permits for operations.

Beyond the Chicago city limits is the City of Club Island and the territory along the Rock Island was already occupied and the industrial area could not be further expanded.

The South Chicago branch of the Rock Island Lines extends from Vincennes Avenue in an easterly direction to 91st and Ewing Avenue, a distance of 5.42 miles of which 4.85 miles is so located that industrial areas cannot be reached. This line is at grade from 87th Street and Vin-

[fol. 4519] cennes Avenue to a point west of State Street, a distance of ¾ of a mile. It is bounded on both sides by housing projects.

From State Street east the line is elevated from a point west of State Street to Commercial Avenue, a distance of 4.1 mile, bounded on the south by 95th Street and on the north by the railroad tracks of the Chicago and Western Indiana Railroad.

The Irondale Branch extends from 95th Street to 107th and Torrence Avenue, a distance of 1.63 miles. This line is bounded on the west by Torrence Avenue and on the east by certain railroad yards. There was very little available industrial land adjacent to this line. At 106th Street this line served the Rock Island slip on the Calumet River. This slip, which was the only access the Rock Island had to water facilities, was too short for many of the vessels plying the Great Lakes.

In the fall of 1946, I had a conference with Mr. J. D. Farrington, then Chief Executive Officer of the Chicago, Rock Island and Pacific Railroad Company, and discussed with him the great handicap in not having industrial property along the Rock Island Lines in Chicago.

The result of this conference with Mr. Farrington was that I made an inspection and check of the potential industrial lands adjacent to the Rock Island Lines without respect to ownership. I made a study of the Pullman Railroad and Pullman properties at that time with a view to deter- [fol. 4520] mining whether the acquisition of the railroad and properties would be beneficial, and whether the Rock Island would be warranted in making a strong effort to purchase them.

On December 31, 1946, I recommended to Mr. Farrington that consideration be given to purchase of the Pullman Railroad and Pullman lands, if could be acquired, because it would give the Rock Island not only industrial sites but, more important to its future, would enable the Rock Island to serve the rail-water terminal of Lake Calumet, the development of which was at a standstill but to me had

great possibilities. At that time the St. Lawrence Seaway was being discussed nationally and even though it was opposed by certain factions, in my opinion, it would be authorized eventually by both the United States and Canada. This was a further attraction for the purchase of the Pullman Railroad and Pullman properties by the Rock Island. Early in 1947, Mr. Champ Carey of the Pullman Company was approached by the Rock Island, and the preliminary negotiations for the purchase of the Pullman Railroad and Pullman properties were started.

During the ten years prior to 1946, the Industrial Department of the Chicago, Rock Island and Pacific Railroad Company, operating in 14 Central-Western states, had been successful in locating many industries along its lines and had developed new industrial districts in the major cities [fol. 4521] served by it. This industrial activity under my direction was brought about by executive action and cooperation in the Rock Island organization among its representatives, who were located in every state of the Union, and in cooperation with the Chambers of Commerce of cities and towns and business men along the Rock Island Lines. It was my recommendation to Mr. Farrington that if the Rock Island Railroad owned the Pullman Railroad, based upon this past experience, it would be successful in development of the industrial lands adjacent to the Pullman Railroad as well as the development of the Lake Calumet Region.

The Rock Island having representatives in all important cities in the United States was in a position to contact industries seeking location of new plants in the Chicago area, and through this medium the available sites to be acquired with purchase of the Pullman Railroad and lands owned by other interests, including lands owned by the City of Chicago, adjacent to the Pullman Railroad, would be developed benefiting not only the Rock Island but the public in general.

The Rock Island by reason of its direct physical connection with the north terminus of the Pullman Railroad, which had been maintained for many years, and by reason

of its close cooperation with the switching operations of the Pullman Railroad, was not only in a position to continue existing service of the Pullman Railroad, but also in a position to provide additional service.

[fol. 4522] Subsequently I made a more detailed investigation and report on the purchase of the Pullman Railroad and Pullman properties. After this further study and review of the properties, I again, in the late summer of 1947, emphasized the importance of purchasing the Pullman Railroad and the Pullman lands. At that time I stressed the importance of additional lands for a long-range industrial development in the Chicago area. I also stated that Lake Calumet Harbor unquestionably would be developed into a commercial enterprise and, when the St. Lawrence Waterway project was authorized, Lake Calumet would further develop into a deep water port, all of which would attract industry to this area.

Based on these recommendations which I made to Mr. Farrington, the Rock Island acquired the Pullman Railroad and approximately 350 acres of Pullman land subject to Interstate Commerce Commission approval.

Promptly upon approval by the Interstate Commerce Commission of the purchase by the Rock Island of the Pullman Railroad and Pullman properties on November 17, 1949, in Finance Docket No. 16252, *Pullman Railroad Company Control, etc.*, the Industrial Department and traffic representatives of the Rock Island, under my direction, proceeded to advertise the purchase of the Pullman properties, and made contact with a great many industries seeking locations in the Chicago Metropolitan District. This program included newspaper and magazine advertis-

[fol. 4523] ing and the issuance and wide distribution of brochures. The brochures were distributed to traffic representatives of the Rock Island located throughout the country, and were sent to major industries in the United States. It was our purpose in undertaking this program to bring about the industrial development of not only the properties of the Rock Island but the whole Lake Calumet Port.

Prior to the establishment of the Chicago Regional Port District, I had several conferences with City officials and offered our services for the development of Lake Calumet in its entirety. Several conferences were held by me with Mr. Oscar E. Hewitt, Commissioner of Public Works for the City of Chicago, in 1952 and 1953, offering to cooperate with the City by construction of industrial lead tracks to City property on Lake Calumet for the development of that land for industrial purposes.

During my investigation of the Pullman Railroad and Pullman lands, I became very much interested in certain land owned by Pullman Standard Car Manufacturing Company and certain buildings owned by War Assets Administration which were located at 130th Street and Stony Island Avenue on Lake Calumet, now known as Calumet Harbor Terminals, Inc. I gave serious consideration to securing an option to obtain the land and buildings located at 130th Street and Stony Island on Lake Calumet. My plan was to locate a storage company or other industry on the property if acquired by the Rock Island with a view [fol. 4524] of it producing rail traffic. If not successful in acquiring the property for Rock Island, I planned to persuade other interests to acquire the property for use as a rail-water terminal again with the view of producing rail traffic. It was my plan also to use the property at 130th Street and Stony Island Avenue on Lake Calumet, whether owned by the Rock Island or other interests, for the industrial development of the whole Lake Calumet Harbor area.

While the Rock Island was in the process of negotiating for the purchase of the Pullman Railroad and Pullman properties, I became aware of the fact that certain interests were negotiating for the acquisition of the land and buildings located at 130th Street and Stony Island Avenue on Lake Calumet.

I was contacted by Mr. Roy C. Griswold and Mr. Donald Bateman of Griswold & Bateman Warehouse Company, A. S. H. Bender of Dealers Transport Company and H. M.

Holden of Overseas Shipping Company during the time that Rock Island was negotiating for the purchase of Pullman Railroad and Pullman lands and they advised me that they were in the process of negotiating with Pullman Company and the War Assets Administration for acquisition of the same land and buildings at 130th Street and Stony Island Avenue on Lake Calumet which I was seeking for the Rock Island. Many conferences were held by me on behalf of the Rock Island with Messrs. Griswold, Bateman, Bender and Holden, who eventually organized Calumet Harbor Terminals, Inc. in the spring of 1949. Mr. Gris- [fol. 4525] wold headed the group and became Chairman of the Board of Calumet Harbor Terminals, Inc.

At conferences held with Mr. Griswold alone or jointly with Messrs. Griswold, Bateman, Bender and Holden, I learned that these interests planned to acquire the land and buildings at 130th Street and Stony Island Avenue on Lake Calumet to establish a rail-water terminal if the property would be served by a trunk line railroad, preferably the Rock Island, provided satisfactory terms could be negotiated with the War Assets Administration and Pullman Company at these conferences.

I advised these interests that the Rock Island was in the process of purchasing the Pullman Railroad and Pullman properties and that the purchase would be definitely accomplished subject to Interstate Commerce Commission approval. I also advised these interests that upon Interstate Commerce Commission approval of the purchase, the Rock Island would cooperate with them fully for the rearrangement of the existing trackage and the construction of additional private tracks to fully utilize the property as a rail-water terminal. I stated that the Rock Island proposed to work fully with them in the industrial expansion of the entire area of Lake Calumet Harbor.

Subsequently these interests were advised by me that the Rock Island had entered into an agreement for the purchase of the Pullman Railroad and approximately 350 acres of land in the Lake Calumet area and adjacent to 130th Street and Stony Island Avenue.

[fol. 4526] The proposed establishment by the Griswold group of a rail-water terminal at 130th Street and Stony Island Avenue on Lake Calumet was in accord with the plans I had outlined for the development of the property as a means of producing rail traffic for the Rock Island and as an initial step in the overall industrial expansion of Lake Calumet Port. In view of this situation there was no purpose in Rock Island's negotiating an option on the property at 130th Street and Stony Island Avenue on Lake Calumet, so I gave up my proposal. In effect, the Griswold group was accomplishing the same result by their purchase of the property as an outright purchase by the Rock Island.

During the period in which I had the many conferences with Messrs. Griswold, Bateman, Bender and Holden, I was approached by Mr. Griswold to cooperate with these interests in negotiating for the purchase of the land and buildings from Pullman Company and War Assets Administration. I agreed to cooperate fully with them.

In assisting the Griswold group to purchase this property I had several meetings with the War Assets Administration in Chicago, and one meeting in Washington, in which I put forth every argument I could think of to have the agency act favorably on the Griswold proposals. The Griswold interests did not complete their purchase with the War Assets Administration until they were sure of [fol. 4527] acquiring the land from Pullman. I also gave material help to the Griswold interests in purchasing the land from the Pullman Company.

At this point I desire to state that the possibilities of developing the property at 130th Street and Stony Island Avenue on Lake Calumet as a rail-water terminal to produce rail traffic for the Rock Island and as an initial step in the expansion of Lake Calumet Port was an important factor in influencing Rock Island to purchase the Pullman Railroad. Likewise one of the factors which influenced Mr. Griswold and his group to buy the property and build-

ings at 130th Street and Stony Island Avenue at Lake Calumet was the assurance by me that the property would be served by the Rock Island Railroad.

Mr. Griswold testified for the Rock Island against the Illinois Central and Kensington & Eastern before the Illinois Commerce Commission in a proceeding known as *Illinois Central Railroad Co. and Kensington & Eastern Railroad Co.* v. *Department of Public Highways, State of Illinois, etc.,* Docket No. 34895, where the Illinois Central and Kensington & Eastern sought permission to cross the right-of-way and railroad of Pullman Railroad Company and to cross Doty Avenue at grade in the vicinity of 127th Street in Chicago for the purpose of serving the Lake Calumet Harbor area. Both the Pullman and Rock Island Railroad opposed the petition of the Illinois Central and Kensington & Eastern. The Rock Island was permitted [fol. 4528] to intervene in the proceeding for the reason that it was in the process acquiring the Pullman Railroad and Pullman properties. I testified for the Rock Island in the same proceeding. Mr. Griswold at that time reaffirmed the fact that he preferred the Rock Island to serve Calumet Harbor Terminals, Inc.

After the Interstate Commerce Commission approved the purchase by Rock Island of the Pullman Railroad and Pullman properties on November 17, 1949, the Griswold interests completed their negotiations for the acquisition of the land and buildings at 130th Street and Stony Island Avenue on Lake Calumet.

When the Griswold interests learned that the Rock Island had obtained approval from the Interstate Commerce Commission to acquire the Pullman Railroad and that its future ownership was assured they became extremely active in soliciting new business.

Thereafter many conferences were held by me with Mr. Roy C. Griswold, President, and Mr. A. S. H. Bender, Vice-President, of Calumet Harbor Terminals, Inc. for the purpose of working out through our Traffic Department necessary rates, transit service and billing. Various

plans were proposed by me to the officials of Calumet Harbor Terminals, Inc. for relocation of existing trackage and construction of additional private tracks. At these conferences the future plans for expansion of Calumet Harbor Terminals, Inc. were discussed. The plans proposed and [fol. 4529] discussed included the possibility of constructing an additional private track connection with the Calumet Harbor Terminals' waterfront track northerly to serve the waterfront property owned by the City of Chicago. This plan would have been the initial step in the development of the whole Lake Calumet frontage for the location of industries. In other words, under the plans discussed, Rock Island was prepared to construct industrial lead tracks from which private industry tracks could be built to serve the waterfront of Lake Calumet Harbor.

Under my direction a map was prepared, a copy of which was submitted as an exhibit in Docket No. 34895—*Illinois Central Railroad Company and Kensington and Eastern Railroad Co.* v. *Department of Public Works and Buildings Division of Highways, State of Illinois, et al.*, dated December 1, 1949.

The purpose of this map was to work out a feasible plan for the industrial development of not only the Rock Island property but the then owned City property, so it could be used for the maximum capacity for industrial use. We proposed, with this plan to proceed and open negotiations with the City, the County and the State, with a view of having them approve it or criticize it for improvements.

We felt, in the interest of development of the City property, from a transportation standpoint that the plan would meet the views of these various bodies.

[fol. 4530] We proposed, after the plan was approved, to promptly prepare a final detail plan showing the subdivision and development of all the available sites for industries. This plan would, of course, be flexible, as often times industries require special track-layouts. The plan in our opinion was feasible. We proposed to issue a bro-

chure and advertise this industrial district throughout the entire United States.

The plan herein referred to showed trackage extending to and on City property for development of the entire deep water channel as it then existed. Our plan was to negotiate and cooperate with the City or any governing body for bringing new industry to the area; these negotiatings would cover:

(1) Right of Way for industrial leads or industry tracks.

(2) Purchase or lease of industry sites.

(3) Establishing necessary rates and service.

During all my negotiations with the principals of Calumet Harbor Terminals there was the closest cooperation in handling all matters of mutual interests. In my opinion Calumet Harbor Terminals benefited greatly by the cooperation of the Operating, Traffic and Industrial Departments of the Rock Island throughout my tenure of office.

Mr. Guandolo: All right, sir. It is now noon time, shall we recess for lunch before you start your cross examination of this witness?

Mr. Wright: Yes, sir.

[fol. 4531] (Witness temporarily excused.)

(Thereupon, at 12 o'clock noon, on Thursday, February 14, 1957, the taking of the aforesaid deposition was recessed until 2 o'clock, p. m., on the same day.)

AFTERNOON SESSION

Thursday, February 14, 1957

2 o'clock, p. m.

Thereupon, WILLIAM E. BOLTON, recalled as the witness named in the aforesaid order, being of lawful age, and having been previously duly sworn in the above cause, testified further on his oath as follows:

Cross examination.

By Mr. Wright:

Q. Mr. Bolton, do you remember when it was that you were promoted to vice-president from Industrial Commissioner?

A. Approximately the fall of 1951, I would say; it may have been a little later.

Q. Is this statement which you have made for the record today different than the statement which you made in the acquisition case as far as the testimony is concerned up to 1948?

A. No, it is not any different and it is confirmed, this deposition of mine is confirmed in the evidence given before the Illinois Commission Case No. 34895, in Chicago, [fol. 4532] July 27, September 13 and December 1, 1949.

* * * * * * *

[fol. 4558] L. B. PRITCHETT was sworn and testified as follows:

Direct examination.

By Mr. Bordes:

Q. State your name and occupation.

A. My name is L. B. Pritchett. I am Vice President in Charge of Industrial Development for the Chicago, Rock Island and Pacific Railroad Company, having been

elected to this position on March 1st, 1956. The duties of this Department are to locate new industries along the rails of the Rock Island, by leasing or selling of land, by helping to promote new industrial districts, and by working with private developers, all designed to produce freight tonnage for the Rock Island.

Q. Now, Mr. Pritchett, you have prepared a statement, have you?

A. I have.

Q. Will you continue to read the prepared statement, please?

A. I entered railroad service in 1920 and subsequently worked for several railroads, including the Missouri Pacific. I was employed in the Executive Department of that railroad until the end of 1935. I was employed by the Rock Island Railroad on January 1st, 1936, as Secretary to the Chief Executive Officer. In June, 1941, I was promoted to Assistant to the Chief Executive Officer, which title was changed to Assistant to the President on January 1st, 1948, when our Trusteeship was ended. [fol. 4559] I was appointed Acting Vice President of the Industrial Department in August, 1953, and upon the retirement of Mr. W. E. Bolton, Vice President in Charge of Industrial Development, on December 31st, 1953, I was made Assistant Vice President-Freight Traffic, and among other duties, I was put in direct charge of the Industrial Department.

During the period I was Assistant to the Chief Executive Officer and Assistant to the President, I worked very closely with Mr. Bolton, acting as liaison officer between the Industrial and Executive Departments. During the absence of the Chief Executive Officer or the President, I attended, as a representative of the Executive Department, many meetings between the Industrial Department and various industries interested in locating on our line. As a result of my close association with the Industrial Department, I was informed as to the industrial growth

over our system and was aware of the managerial policies in regard to industrial development.

As far back as 1874, the Management of the Rock Island Railroad realized the strong potential of the South Chicago and Lake Calumet areas. It was in that year that the Rock Island purchased a right-of-way and constructed a line from 87th Street and Vincennes Avenue eastward towards Lake Michigan along the north side of 95th Street to the east side of Torrence Avenue. From this point we constructed a line south to 106th Street and Torrence Avenue in Chicago.

[fol. 4560] In 1899, we purchased 28 acres of land near 106th Street and Torrence Avenue on the Calumet River in Chicago. In 1902, the Rock Island constructed a slip off the Calumet River which we still own and which is being used for rail-to-water traffic, such as grain, sand and other freight.

Due to the physical characteristics of the territory adjacent to the Rock Island's main line, which is largely residential, the industrial areas served by the Rock Island in Chicago are now and have been very limited.

The Rock Island is elevated from LaSalle Street Station south to 87th Street, a distance of approximately ten miles, with houses predominantly on either side of the right-of-way, thereby making it impossible for any industrial expansion in this area. The portion of our main line from 87th Street south to Blue Island, Illinois, which is at grade, is generally flanked by houses and residential areas, or by Vincennes Avenue on the west, thus leaving little land available for industry.

The South Chicago branch of our railroad, running from 87th Street and Vincennes Avenue eastward, is surrounded by houses and residential areas and is paralleled by 95th Street; or is at an elevation which makes it impossible to utilize adjacent land for industrial expansion. The Rock Island owns an area between 90th and 93rd Streets, just east of our main line, which consists of about 15 acres, and which is being developed for industrial pur-

poses. Also, we formerly owned about 20 acres west of [fol. 4561] our main line south of 115th Street, which has been sold or leased to industries; and we own 50 acres between our main line and Ashland Avenue, and between 115th and 119th Streets, which was acquired some 40 years ago for yard expansion purposes. It appears that some portion of this property, lying adjacent to Ashland Avenue, will be used for South Side Expressway purposes, but the remaining land is ideally adapted for yard expansion purposes. The potential yard capacity there will be referred to by a later witness.

I offer Exhibit H-82 for identification.

Exam. Albus: It may be so marked Exhibit H-82.

(Intervener's Exhibit No. H-82, Witness Pritchett, was marked for identification.)

The Witness: This exhibit was prepared under my direction and supervision, and is true and correct to the best of my knowledge and belief.

This exhibit shows, in red outline, the right-of-way and land owned by the Rock Island prior to purchase of the Pullman Railroad and almost all the land available for industrial development adjacent to the Rock Island.

I offer Exhibit H-83 for identification.

Exam. Albus: It may be marked Exhibit H-83 for identification.

(Intervener's Exhibit No. H-83, Witness Pritchett, was marked for identification.)

[fol. 4562] The Witness: This exhibit was prepared under my direction and supervision, and is true and correct to the best of my knowledge and belief.

The exhibit shows the industries in the Chicago Switching District served by Rock Island and by railroad applicants and their affiliates. Sheet 1 of the exhibit gives a summary of industries served exclusively and industries served by two or more railroads. It will be noted that there are 4,405 industries served exclusively. Of this total,

Belt Railway of Chicago, for its own account, serves 377 industries exclusively. The proprietors of the Belt and their subsidiaries, but excluding the Rock Island, serve exclusively the following number of industries:

Santa Fe	30
C&O	6
C&EI	21
CB&Q	359
Erie	34
Grand Trunk Western	37
Illinois Central	368
Soo Line	117
Monon	14
Pennsylvania R.R.	436
Wabash	67
TOTAL	1,489

[fol. 4563] The New York Central and its subsidiaries serve 656 industries exclusively; the Indiana Harbor Belt serves exclusively for its own account 365 industries; the CMStP&P Railway Company and the C&NW Railway Company, two of the owners of the IHB, serve exclusively 537 and 751 industries respectively; the CRI&P Railroad Company serves 186 industries exclusively. The other 44 industries are served exclusively by the CSS&SB Railway (4) and the Illinois Northern Railway (40).

If the theory of the applicants is true, we don't subscribe to it, incidentally, that industries should have the service of two or more railroads, it is apparent there are 4,405 industries inadequately served in the Chicago Switching District.

Needless to say, applicants here which, as shown above, serve exclusively numerous industries in the Chicago area, would not see fit to open up their territories to all railroads. I will give you an example of the attitude of one of the applicants in this proceeding in regard to providing additional rail service to industries. The Calumet Western

Railway Company is owned jointly by the Pennsylvania, by the Rock Island and by the Indiana Harbor Belt. It owns a right-of-way and tracks which generally parallel the west bank of the Calumet River between 105th and 130th Streets in Chicago. About 1935 the Glidden Company purchased certain land from the Pennsylvania Railroad, lying along the Calumet River, and announced plans to locate a large grain elevator thereon. In order to serve [fol. 4564] this industry, the Pennsylvania constructed a spur track which led out of an existing spur track serving Great Lakes Carbon Corporation, and which corporation was and is served jointly by the three owners. This new track crossed some exclusively owned Pennsylvania land. The Pennsylvania announced it would serve Glidden exclusively. After the Pennsylvania's action to serve the Glidden Company exclusive, Rock Island and Indiana Harbor Belt served notice on Pennsylvania, under the terms of certain contracts entered into between the parties during the early 1900's, pursuant to which the three of them had built the Calumet Western, that they had the right and desire to serve the Glidden Company and were willing to pay their proper share of the expense of the trackage in question. The Pennsylvania refused to permit the other two owning lines to join in serving Glidden. Subsequently, the Rock Island and Indiana Harbor Belt filed tariffs with the Interstate Commerce Commission listing Glidden as an industry on their lines. The Pennsylvania then petitioned the Interstate Commerce Commission to suspend these tariffs and, after a hearing and consideration by the Interstate Commerce Commission, in a proceeding known as *The Glidden Company—Chicago Switching District (Docket No. 31736)*, Pennsylvania's petition was dismissed.

I ask that Exhibit H-84 be marked for identification.

Exam. Albus: The document may be marked Exhibit H-84 for identification.

[fol. 4565] (Intervener's Exhibit No. H-84, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-84 is a copy of the report of the Commission in Docket 31736 and is true and correct to the best of my knowledge.

Pennsylvania then filed suit in the Superior Court of Cook County, Illinois, asking the Court to make a finding that Rock Island and Indiana Harbor Belt did not have the right to use the spur in question. After receiving evidence and hearing arguments in a proceeding known as *The Pennsylvania Railroad Company* v. *Chicago, Rock Island and Pacific Railroad Company* (No. 56-S-17257), the Superior Court entered judgment in favor of Rock Island and Indiana Harbor Belt.

I ask to have Exhibit H-85 marked for identification.

Exam. Albus: Exhibit H-85 will be marked for identification.

(Intervener's Exhibit No. H-85, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-85 is a copy of the decree of the Superior Court in *No. 56-S-17257* and is true and correct to the best of my knowledge and belief. The case is now pending before the Supreme Court of Illinois on appeal by the Pennsylvania. The Pennsylvania based its position on the ground that the Indiana Harbor Belt and Rock Island had no contract rights to use the Pennsylvania track, and we do not propose to debate that issue here. What we do say is that the Pennsylvania is opposing [fol. 4566] the rights of other railroads to serve the Glidden elevator jointly, although the Pennsylvania asserts here that public convenience and necessity require Pennsylvania service to the Port District elevators located miles from the Pennsylvania, in a territory foreign to it.

In the period from 1940 through 1946, while many industries were seeking location in or near Chicago, the scarcity of industrial sites along our line was a severe handicap. During this period Mr. Bolton, then head of our Industrial Department, made extensive surveys in a search for land in Chicago, which could be purchased and utilized

by our railroad for industrial districts. As there was little or no land available from LaSalle Street Station south to Blue Island, Illinois, the search for industrial land was extended to the Lake Calumet region.

The Recommendation of the Industrial Department from these initial surveys, was that the Rock Island should try to purchase the Pullman Railroad if it were for sale. The reasons for this were threefold: (1) There were existing industries served by it which would produce, immediately, freight tonnage for the Rock Island; (2) there were large tracts of vacant land adjacent to the Pullman Railroad which could be used both for light and for heavy industry; (3) and, finally, there was the conviction that Lake Calumet would one day be made into an international port, which would be served by the Rock Island.

[fol. 4567] In 1947, the Rock Island contacted the Pullman interests to see if the Pullman Railroad could be purchased. In the summer of 1948, after lengthy negotiations, an agreement was reached whereby the Rock Island would acquire the Pullman Railroad. In addition to the railroad, the Rock Island would purchase approximately 355 acres of land adjacent to the Pullman Railroad.

Pursuant to the terms of a contract executed August 26th, 1948, Rock Island agreed to purchase from the Pullman interests all the issued and outstanding capital stock of Pullman Railroad, consisting of 5,000 shares of common for $1,175,000.

May I have the next exhibit marked Exhibit H-86 for identification?

Exam. Albus: It will be so marked.

(Intervener's Exhibit No. H-86, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-86 is a copy of the stock purchase agreement and is true and correct to the best of my knowledge and belief. By a separate contract dated August 26, 1948, Rock Island agreed to purchase from the Pullman interests, for a consideration of $1,025,000, cer-

tain parcels of real estate aggregating approximately 355 acres situated adjacent to Pullman Railroad tracks.

May the next exhibit be marked Exhibit H-87 for identification?

[fol. 4568] Exam. Albus: It may be marked Exhibit H-87 for identification.

(Intervener's Exhibit No. H-87, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-87 is a copy of the land purchase agreement and is true and correct to the best of my knowledge and belief.

On September 1st, 1948, the Rock Island sought Interstate Commerce Commission approval for the acquisition of the Pullman Railroad. The Commission approved the acquisition in 1949 in a proceeding known as *F. D. No. 16252, Pullman Railroad Company Control, Etc.*, and the Rock Island Railroad assumed control and took over operation of the Pullman Railroad on January 1, 1950.

May the next exhibit be marked Exhibit H-88.

Exam. Albus: It will be so marked.

(Intervener's Exhibit No. H-88, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-88 is a copy of the Commission's Report and Order in *F. D. No. 16252.*

Following the acquisition of the Pullman Railroad, the Rock Island entered into a lease agreement, dated January 1, 1950, to lease all property of Pullman Railroad.

May the next exhibit be marked Exhibit H-89 for identification?

Exam. Albus: It may be marked Exhibit H-89 for iden-

[fol. 4569] tification.

(Intervener's Exhibit No. H-89, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-89 is a copy of the lease agreement and is true and correct to the best of my knowledge

and belief. The terms of the lease agreement have been extended to 1965 by authority of the Commission granted on January 20, 1955, in *F. D. No. 16252, Pullman Railroad Company Control, Etc.*

May the next exhibit be marked Exhibit H-90 for identification?

Exam. Albus: It will be marked Exhibit H-90.

(Intervener's Exhibit No. H-90, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-90 is a copy of the agreement to extend the terms of the original lease agreement.

May the next exhibit be marked as Exhibit H-91.

Exam. Albus: Exhibit H-91 will be marked for identification.

(Intervener's Exhibit No. H-91, Witness Pritchett, was marked for identification.)

The Witness: Exhibit H-91 is a copy of the Commission's Supplemental Report and Order in *F. D. No. 16252*, extending the time of the lease to 1965. The exhibits are true and correct to the best of my knowledge and belief.

I next ask to have marked Exhibit H-92 for identification.

Exam. Albus: Exhibit H-92 will be so marked.

(Intervener's Exhibit No. H-92, Witness Pritchett, was marked for identification.)

[fol. 4570] The Witness: Exhibit H-92 was prepared under my direction and supervision and is true and correct to the best of my knowledge and belief. This map shows that portion of the original Pullman Railroad, now known as Rock Island Railroad, extending from just north of 95th Street and west of Stony Island Avenue, in a southerly direction, terminating at and connecting with trackage of the Calumet Harbor Terminals, Inc., which property is located on the south edge of Lake Calumet at 130th Street and Stony Island Avenue, 5.1 miles from 95th Street. The red lines indicate trackage owned or leased by the Rock

Island Lines; shaded red indicates land owned or leased by the Rock Island Lines; shaded green indicates land sold by the Rock Island since January 1st, 1950; and yellow indicates new trackage proposed to be constructed by the Rock Island.

Upon acquisition of the Pullman Railroad by the Rock Island in 1949, the Rock Island started to work on track layouts to serve not only Calumet Harbor Terminals, but the future development of Lake Calumet at such time as a port was established. Plans have been revised from time to time, and our planning will continue to be flexible so as to meet traffic needs as they arise.

Being aware that when the port became a reality, additional yards and equipment to handle traffic to and from the port would be required, we withdrew from the market certain of the land we had acquired, as it would be required [fol. 4571] to construct additional yard facilities with the development of the port in Lake Calumet. In this way, we planned to retain needed land in this area so as to provide adequate yards to handle traffic to and from the port and to serve industries located along the former Pullman Railroad. Thus, we have reserved this land for operating needs since 1950 and, during 1957, our Management appropriated money to begin the necessary yard tracks, located at 123rd Street, to be used in serving the enlarged activities of this port area. On Exhibit H-92 is shown, in yellow, these additional yard facilities which are either now under construction or proposed for early construction. If the development of Lake Calumet requires the Rock Island to enlarge our yard at 95th Street, we have the land available for this purpose. Another witness will develop this subject further.

We have lost or are in the process of losing almost 62 acres of the original 355 acres of land purchased from the Pullman interests, for industrial use.

At the time the State of Illinois developed plans to construct a clover-leaf at the intersection of 130th Street and Doty Avenue, we agreed to sell sufficient land for this project, and in 1952 we deeded the State 33.95 acres of land.

In 1956, we deeded 4.72 acres to the State for the widening of Doty Avenue. The City of Chicago has plans for a super-highway running eastward from State Street, in Chicago, at approximately 99th Street, to join Doty Avenue at 103rd Street. For this project, the City may require [fol. 4572] approximately 20 acres of our land south of 99th Street, and 3 acres at the intersection of 103rd Street and Doty Avenue for construction of a clover-leaf.

According to present plans, one route of the South Side Expressway will touch the west side of our main line right-of-way about 22nd Street, and will parallel these tracks to about 47th Place, eliminating all present industries which we serve along this route, including our Root Street Industrial Yard. We cannot predict how many of these industries can be relocated so as to be served by our line.

The State of Illinois desired to eliminate the crossing of Doty Avenue at 129th Street, by the Pullman Railroad, at grade. We entered into negotiations with the State relative to an overpass over Doty Avenue to eliminate any traffic congestion at this point by reason of our track crossing a busy expressway at grade. Suitable arrangements have been worked out between the Chicago Regional Port District, State Highway Department and the Rock Island Railroad covering this overpass, which will be constructed shortly, and it might be stated it is now under construction. This overpass will cross Doty Avenue at approximately 127th Street at an angle so that the track will head in a northerly direction so as to tie directly into tracks of the Lake Calumet Port Yard. It is designed so as to require a minimum of port land to reach port trackage and yet provide for efficient operation.

[fol. 4573] Mr. Dwinell: You will recall the other day we stated we would file our contracts with the Port District, and this entry is one of the subjects which will be covered. This afternoon, I expect to have those contracts copied for entry into the record.

Exam. Albus: All right, sir.

The Witness: We are presently negotiating with officials of the City of Chicago, State of Illinois, owners of real estate, and the Port District to establish a permanent overhead crossing of Doty Avenue near 108th Street. This would give the Rock Island two entrances into the port, both by use of overhead crossings, which will eliminate any interference with highway traffic on the Doty Avenue expressway. This project, involving a crossing of 108th Street, has necessarily been held up because expressway plans involving Doty Avenue, have not been put in final form. We cannot secure necessary right-of-way until the location of the track and the overpass can be determined after expressway plans for Doty Avenue are final.

The Port gave the Pullman Railroad a permanent easement over its land to connect with the Port tracks and, although only one track over Doty Avenue will be constructed initially, the Pullman Railroad has the right to construct a second track on the overpass crossing Doty Avenue.

* * * * * * *

[fol. 4598] W. B. THROCKMORTON was sworn and testified as follows:

Direct examination.

By Mr. Guandolo:

Q. State your name for the record, please.

A. My name is W. B. Throckmorton.

Q. Where are you employed?

A. I am Chief Engineer for the Chicago, Rock Island and Pacific Railroad Company, appointed to that position January 1, 1950.

Q. Have you prepared a statement to be presented in this hearing?

A. I have.

Q. Will you commence to read the statement, please?

A. I am a registered professional engineer in the States of Illinois and Iowa. My studies in engineering were made at the Colorado School of Mines. Upon leaving school in 1925, I worked on preliminary surveys and locations for the Highway Department in Colorado. In 1928, I began my railroad engineering experience with the Fort Worth and Denver City Railroad, a Texas subsidiary of the Chicago, Burlington and Quincy Railroad. In 1930, I became resident engineer for that company on railroad location and construction. Early in 1937, I worked on construction and location for the Denver & Rio Grande Western Railroad. Since 1937, I have been in the Engineering Department of [fol. 4599] the Rock Island Railroad. Most of the line and grade revisions and much of the construction work since 1937 have been under my supervision.

In 1937, the Rock Island began a program of maintenance and of capital improvements to modernize the railroad. At that time the following conditions obtained in the physical plant of the railroad:

(1) Average weight of rail on the system was 83.42 pounds per yard, and on main lines was 91.59 pounds per yard.

(2) Ballast consisted principally of pit-run gravel and cinders.

(3) On some portions of main lines heavy loads were restricted because of light design of certain bridges.

(4) There were many 3 and 4 degree curves and some 6 degree curves in main lines which restricted speeds.

(5) There were four pusher grades in main lines requiring helper service or severe reduction in tonnage rating for trains.

(6) Classification yards needed modernization.

A part of the results of our improvement program to date is as follows:

(1) The weight of the main line rail averages 105.96 pounds.

(2) Ballast on the main line consists of either chat, crushed granite, or furnace slag.

(3) Bridges are suitable for heavy loading traffic.

(4) Main line alignment is now set up for high speed [fol. 4600] traffic, with 1 degree 30 minute curves being maximum. Only a few main line curves exceed 2 degrees, principally in terminals or points where curvature will not affect speed.

(5) There are no pusher grades on the system.

(6) Modern classification yards have been constructed.

I will ask that Exhibit H-94 be marked for identification.

Exam. Albus: Exhibit H-94 for identification.

(Intervener's Exhibit No. H-94, Witness Throckmorton, was marked for identification.)

The Witness: Exhibit H-94 for identification was prepared by me or under my direction and it is true and correct to the best of my knowledge and belief, and is a summary of capital improvements from 1937 through 1956, and shows that since January 1, 1948 the Rock Island has spent an average of 6.4 million dollars annually for roadway capital improvements.

May I have Exhibits H-95 and H-96 marked for identification.

Exam. Albus: Exhibits H-95 and H-96 for identification.

(Intervener's Exhibits Nos. H-95, and H-96, Witness Throckmorton, were marked for identification.)

The Witness: Exhibits H-95 and H-96 were prepared by me or under my direction and are true and correct to the best of my knowledge and belief, and show respectively the track miles and new rail laid and cross tie renewals for the Rock Island System.

I will ask to have Exhibit H-97 marked for identification.

[fol. 4601] (Intervener's Exhibit No. H-97, Witness Throckmorton, was marked for identification.)

The Witness: Exhibit H-97 was prepared by me or under my direction and is true and correct to the best of my knowledge and belief, and it shows statistics on 27 line and grade revisions made since 1939.

To demonstrate the magnitude of the projects shown on Exhibit H-97 and the scope of the modernization program, some of the work accomplished by the Rock Island should be mentioned.

The Cimarron River Crossing at Arkalon, Kansas, was the first principal line change under the modernization program, and was completed in 1939. The project consisted of 8.43 miles of new line and a high level bridge, and saved 3.56 miles of distance, eliminated 113 feet of rise and fall and 353 degrees of curvature. The project cost a little over a million dollars.

In 1942, the Rock Island completed a 2.1 million dollar line revision southwest from Mercer, Missouri. The 15.1 mile new route saved 149 feet rise and fall and 411 degrees of curvature, reduced maximum gradient to 0.5 per cent from 1.58 per cent, and eliminated a pusher grade. This segment of line carries not only the Chicago south and west traffic but also the north-south traffic between Minneapolis and Kansas City.

In 1945, the Rock Island completed, jointly with the Milwaukee, a new Missouri River Bridge and entrance to Kansas City. The new route, 10.4 miles long, saved two [fol. 4602] miles. The Rock Island's share of the cost was 1.7 million dollars.

In 1945, 1946, 1947, and 1948, the Rock Island progressively completed segments of a major line revision from Ainsworth to Numa, Iowa. Overall the Rock Island constructed 79.3 miles, reducing distance by 11.1 miles, rise and fall by 871 feet, curvature by 2693 degrees, and maximum grade to 0.6 per cent from 1.6 per cent. The project cost 11.6 million dollars.

A 1.7 million dollar project completed in 1951 resulted in a time-saving new entrance to the Denver Terminal. This project consisted of a 3½ mile freight line connecting into the Denver & Rio Grande North Yard and served as a by-pass for freight trains which previously were run through the Denver Union Terminal enroute to the North Yard.

In 1954, the Rock Island completed a new line between Atlantic and Council Bluffs, Iowa, reducing the distance 11.1 miles and eliminating 2200 degrees of curvature. This project cost ten million dollars.

As a result of 27 line changes and grade revisions since 1937, costing 31.7 million dollars, the Rock Island has eliminated four pusher grades, 6237 degrees of curvature, 30.4 miles of distance, and reduced the ruling grade to 0.5 per cent on the California or Southwest Line and 0.8 per cent on Colorado Line. We have spent $19,421,000 for reconstruction and betterments to the bridges.

Since total dieselization, the Rock Island has constructed [fol. 4603] service facilities costing $5,760,000 for locomotive power. Improved shops, storehouses and similar structures have been included in the modernization program.

May I have Exhibit H-98 marked for identification?

Exam. Albus: It will be so marked.

(Intervener's Exhibit No. H-98, Witness Throckmorton, was marked for identification.)

The Witness: Exhibit H-98, which was prepared by me or under my direction and is true and correct to the best of my knowledge and belief, shows the extent of modernization of the Rock Island Signal System. Since 1937, the Rock Island has installed 2630 miles of automatic block signals and centralized traffic control at a cost of eight million dollars. To date 45 per cent of the total mileage on the System is so equipped.

In 1947, the Rock Island began modernization of the Armourdale, Kansas, Classification Yard. The work included construction of a hump retarder yard. In 1949, a similar hump retarder yard was constructed at Silvis, Illi-

nois, and in 1957, the Silvis Yard was converted to an automatic switch control yard. The total cost of these yard modernization projects is $4,875,000.

As a result of the program of maintenance and of capital improvements commenced in 1937, the Rock Island now has a modern, up-to-date physical plant capable of efficiently handling railroad traffic.

[fol. 4604] Since taking over operation of the Pullman Railroad Company on January 1, 1950, the Rock Island has made and is making many improvements and betterment in the Chicago Division and other improvements and betterments are planned.

The recommendations for improvements in the Chicago Division include several projects, costing nearly half a million dollars, in the South Chicago and Calumet area yards alone. About half of this expenditure is to be made for a new yard at 124th Street and an office building, all to serve the expanding Chicago port area. The new yard will be started this year.

In the South Chicago Yard at 95th Street in 1954, 1955, and 1956, fourteen short tracks were converted into seven long tracks to facilitate interchange. Approved for 1957 is an additional 4770-foot track. This is the first of three such tracks, the construction of which is contemplated. Cost of tracks constructed since 1954 and those yet to be constructed in this yard is $147,000. Adjacent to the South Chicago Yard there is room for two more tracks totaling 5850 feet in length which we will build if required. The capacity of the present South Chicago Yard is 1017 cars and can be expanded to 1886 cars.

With the establishment of new industries in the vicinity thereof, the original 97th Street Yard became inadequate. A program of expansion of this yard was undertaken which consists of nine tracks with a total capacity of 190 [fol. 4605] cars. Two 40-car tracks were constructed in 1955. In 1956, a yard track was constructed forming a lead for the other additional yard tracks approved for 1957

construction. The estimated cost of the expansion is $144,000.

I have two sentences here which are not in.

Exam. Albus: You may add them.

The Witness: This yard can be expanded to a car capacity of 445 cars. Another sentence to be added: The capacity of the present 115th Street Yard is 190 cars.

In the proposed 124th Street Yard, the construction of nine tracks with a capacity of 242 cars, costing $191,000 has been approved. Actual construction of these tracks will be progressed as they are required and, in addition, we have real estate adjacent to this yard upon which we can build tracks with a capacity of 1370 cars.

The Rock Island has trackage into the Lake Calumet Port near 130th Street and Doty Avenue. Negotiations with the Illinois State Highway Department were completed in 1952 to relocate the trackage into the Lake Calumet Port in order to clear the construction of the new Calumet Expressway interchange at 130th Street. A grade separation structure, carrying the railroad over Doty Avenue, is being constructed, which requires certain trackage revisions, some of which have been completed. This will be the Rock Island's permanent trackage into the Lake Calumet Port area from the south.

[fol. 4606] Mr. Bierma: May I interrupt for clarification. You used the term in that paragraph "into the Lake Calumet Port", do you mean up to the Lake Calumet Port? The Rock Island doesn't own trackage into the Port?

The Witness: Not on the Port property.

Mr. Bierma: In other words, you mean up to the Port area?

Mr. Dwinell: We have easements on port property up to the yard on port property.

Exam. Albus: So then it would mean into the Lake Calumet Port?

The Witness: Into would be correct.

Exam. Albus: You may proceed.

Mr. Bierma: Those easements are covered by the contract, are they not?

Mr. Dwinell: Do you want them now? I have them all ready.

Mr. Bierma: No.

Exam. Albus: You may proceed.

The Witness: A track leading off the Pullman Branch near 103rd Street serves the garbage disposal area at the northwest edge of Lake Calumet. This track crosses over Doty Avenue near 107th Street extended. It is our plan to adjust this route to serve the port area from the north and to connect into the port tracks which will parallel Doty Avenue on the west side of the Lake. This connection will provide two-way service into the switching and service tracks of Lake Calumet Port.

[fol. 4607] In addition, the Gresham Yard at 89th Street and Vincennes Avenue can be expanded to a capacity of 150 cars. Tracks having a capacity of 1600 cars can be constructed on the Rock Island property adjacent to the main line near 119th Street. The large Burr Oak Yard at Blue Island can be expanded from its present capacity of 3500 cars to 3850 cars. These tracks, together with the South Chicago and Pullman Yard tracks, would have a total capacity of 9,733 cars.

As the Lake Calumet Port develops and additional yard tracks and servicing facilities are required in that area, the Rock Island is prepared to meet the demands, just as the Rock Island has (as shown by my statement) improved, enlarged, and modernized its property over the past years to meet all requirements.

By Mr. Guandolo:

Q. Mr. Throckmorton, on Page 15, of the Applicant's Return to the Questionnaire in Finance Docket 19538, and I refer specifically to Question No. 33, they have set out the engineering work which is to be done with respect to the proposed new line under the 130th Street Bridge, and in Question 34, they say the maximum curvature to the

Lake Calumet Port will be 20 degrees. Have you any comment to make on the maximum amount of curvature from an engineer's point of view?

A. I would say a 33 degree curve is not prohibitive, but not desirable.

Q. Why not?

A. A 20 degree curve can be hazardous because it might [fol. 4608] cause derailments. It increases the cost of maintenance of track, it makes it very difficult for train men to pass signals, particularly if it is a long 20 degree curve, and it also restricts the number of cars that can be handled because of the resistance created by the curve tower.

Q. What about speed of operation, does it limit speed of operation?

A. Yes. A 20 degree curve requires very slow speeds.

Q. Have you seen the site under the 130th Street Bridge where they propose to construct this track and I direct your attention to this aerial photograph, and I am speaking now of a point south of Lake Calumet proper and west of the Calumet River?

A. Yes, I have seen it.

Q. In your opinion, can a second track be constructed under the plan presented here by the applicants underneath the 130th Street Bridge?

A. No.

Q. It is your opinion, then, that only one track could be constructed?

A. Under their plan.

* * * * * * *

[fol. 4609] Cross examination.

* * * * * * *

[fol. 4613] By Mr. Olson:

Q. Now, again, with reference to the 97th Street Yards, there again your exhibit shows nine tracks with a 290-car capacity; whereas I believe you testified that they had a capacity of only 190 cars. Will you tell us which of those figures is correct, if either?

A. There, again, I am referring to what has been authorized as against what can be placed in this area. In other words, we have area available for, as you notice here, a total of 445 cars and we have only authorized up to what my statement shows.

Q. In other words, this 97th Street Yard which you show on Exhibit H-92 has no present car capacity, is that correct?

A. It does have.

Q. Actual present car capacity?

A. Yes, it has a capacity.

Q. Tell us what it is?

A. It has a capacity of 190 cars.

Q. Then this Exhibit H-92 is what you project into the future, is that correct?

A. Yes, sir.

Q. Mr. Throckmorton, you gave us a total capacity potential of 9,733 cars. Will you tell us what your total pres- [fol. 4614] ent actual capacity is for yards which can be used for serving the Port?

A. At the moment?

Q. Yes, sir.

A. I will have to add that up.

Q. And break it down as well.

A. Will you give me a little time?

Exam. Albus: Take your time, Mr. Throckmorton.

The Witness: Did I understand correctly, you wanted this broken down by locations?

Mr. Olson: Yes, sir, as well as grand total.

The Witness: All right. The 115th Street Yard has a 190-car capacity; 97th Street Yard has a 190-car capacity; South Chicago Yard has a 1,017-car capacity; Gresham Yard has an 84-car capacity; Burr Oak Yard has a 3,005-car capacity, and if my addition is correct, the total is 4,981 cars.

• • • • • • •